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(27)

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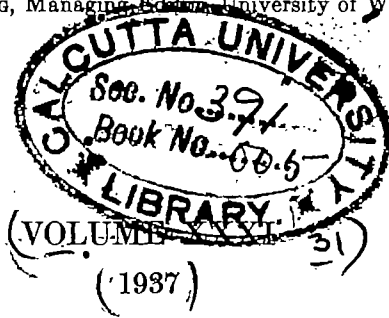
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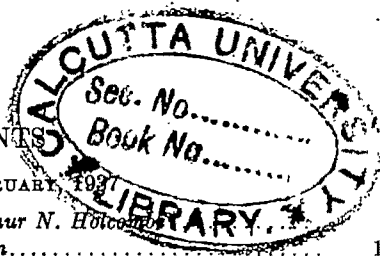
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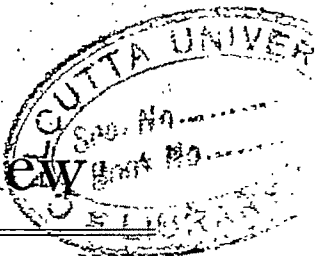
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THE POLITICAL INTERPRETATION OF HISTORY*

ARTHUR N. HOLCOMBE

Harvard University

Ever since the inquisitive age in which Voltaire wrote his *Philosophic Dictionary*, reflection upon the course of human events has caused scholars to persist in the search for a rational interpretation of history. They have not been discouraged by the skepticism of historians who, like Froude, have argued that the address of history must be less to the understanding than to the higher emotions. "A science of history," according to this historian, "implies that the relation between cause and effect holds in human things as completely as in all others; that the origin of human actions is not to be looked for in mysterious properties of the mind, but in influences which are palpable and ponderable." Froude believed that "natural causes are liable to be set aside and neutralized by what is called volition," and that in consequence "the word Science is out of place" in connection with the study of history. If, as Froude intimated, the origin of human actions can be found only in mysterious properties of the mind, the outlook for a rational interpretation of history may well be poor.

Despite the skeptics, political scientists, I think, will prefer to believe with Kant that "whatever metaphysical theory may be formed regarding the freedom of the will, it holds equally true that the manifestations of the will in human actions are determined, like all other external events, by universal natural laws." Hence, as Kant persuasively argues in his epoch-making essay, *The Natural Principle of the Political Order*, it may be hoped that, when the play of the human will is examined on the great scale of universal history, a regular march will be discovered in its movements.

* Presidential address delivered before the American Political Science Association at its thirty-second annual meeting, Chicago, Illinois, December 29, 1936.

Thus, as Kant himself pointed out, marriages, births, and deaths appear to be incapable of being reduced to any rule by which their numbers may be calculated beforehand, on account of the great influence which the free will of man exercises upon them; and yet the vital statistics of all countries prove that these events take place according to constant natural laws. He compared them with the very inconstant changes of the weather, which cannot be determined beforehand in detail, but which maintain the flow of rivers, the growth of plants, and the existence of the animal world. Men, viewed as a whole, are not guided in their efforts merely by instinct, like the lower animals; nor do they proceed in their actions, like the citizens of a purely rational world, according to a preconceived plan. Nevertheless, Kant concluded, it may be possible to discover a universal purpose of nature in this paradoxical behavior of human beings. We may not choose to speak of a science of history, but we may hope to collect with the aid of the historians the materials by means of which the history of creatures who act without a conscious plan of their own can be rationally interpreted according to a determinate plan of nature.

Kant did not believe that he himself knew enough about the history of mankind to explain the laws of human development, but he did venture to offer a clue to such an explanation. This clue is embodied in the famous eighth proposition of his essay on *The Natural Principle of the Political Order*. "The history of the human race," he declared, "viewed as a whole, may be regarded as the realization of a hidden plan of nature, to bring about a perfect political constitution as the only state in which all the capacities implanted by her in mankind can be fully developed." This is the great hypothesis which gives Kant his transcendent position among those who have sought a rational interpretation of history. It calls for an interpretation of history in terms of a constitutional history of mankind. Since the essence of every kind of constitution is the system of education which gives the constitutional forms their vital force and practical significance, a constitutional history of mankind becomes a history of the growth of the political ideas and ideals which animate the constitutions. Kant's formula for a rational interpretation of history, therefore, calls for the systematic and purposeful study of political ideas as reflected in political structures and processes. Such an interpretation may be termed for convenience a political interpretation of history.

Of all the political interpretations of history which have been inspired by the Kantian hypothesis, the most important is that of Hegel. The Hegelian conception of the history of mankind as a record of the gradual broadening and deepening of the idea of liberty is the grandest in the history of political philosophy. But Hegel's idea of liberty was conditioned by the circumstances and the temper of his time. With one eye doubtless on the fundamental verities, but with the other on the king of Prussia, he reached a conclusion which was better suited to gratify the pride of patriotic Germans than to satisfy the needs of dispassionate political thinkers. The resulting discredit of the Hegelian interpretation of history tended to depress the value of the Kantian hypothesis itself.

We Americans, without devoting much attention to philosophical interpretations of history, have always cherished our faith in the independent power of political ideas and ideals. The democratic-republican creed, if I may so describe the traditional principles of American politics, emphasizes the importance of securing the blessings of liberty. But we reject the Hegelian idea of liberty as too narrow and too negative. We doubt if there can be any satisfactory definition of liberty except in terms of some more positive concept. The idea of liberty seems to us to be closely associated with that of justice. We prefer to define it as the absence of political restraints upon personal behavior except those imposed by just laws. We identify justice with the interest of the whole body of people. We believe that a reasoned and settled determination to establish justice, and thereby also to secure the blessings of liberty, has been one of the active forces in building the American Commonwealth. For democratic-republican Americans, therefore, it is not difficult to believe further that a philosophical attempt to work out the universal history of the world with the aid of the clue furnished by Kant may eventually succeed in giving it a rational meaning in terms of a gradual broadening and deepening of mankind's natural sense of justice. Abroad, however, doubt on the part of professional students of politics that an acceptable interpretation of history could be achieved by the method of Hegel helped to clear the way for the favorite theory of a large part of the contemporary world, the economic interpretation of history.

The most recent statement of the economic interpretation of history comes from the skillful pen of the leading political theorist of the British Labor party, Harold J. Laski. No advocate of the

Marxist political philosophy can be expected to make out a better case than Professor Laski in his latest two volumes, *The State in Theory and Practice*, and *The Rise of European Liberalism*. Laski is not unmindful of criticism which has been directed against the Marxist philosophy of history. He is much too intelligent to argue that the selfish desire for personal gain on the part of members of governments affords an adequate clue to public policy, or even that the use of power is always governed by the private advantage of the economic class which dominates the state. He admits that statesmen may be sincere in their belief that they employ the authority of the state for the highest ends they know. He contends merely that what the rulers of the state can know and desire is conditioned by the economic relationships which the state, he thinks, exists in order to maintain; that these relationships give birth to an appropriate body of ideals; and that these ideals possess political validity because of their supposed power, as Laski puts it, "to maximize the possibilities of production." History, he concedes, is meaningless when read as nothing but a struggle between conflicting selfish interests. So to regard it, he insists, "is to defame the quality of human nature." History, he believes, is rather the record of the competition of ideals for survival, the character of which is determined by their power to exploit productive possibilities in the existing economic order. In other words, the latest and most refined version of the economic interpretation of history clothes the naked facts of the class struggle in the splendid raiment of triumphant ideals. These ideals remain, nevertheless, nothing more than rationalizations of economic interests.

A preliminary answer to such an interpretation of history is to match it against another which offers a conflicting interpretation of the same phenomena. For this purpose, Pareto's psychological interpretation of history comes conveniently to hand. Instead of rationalizations, Pareto offers us residues and derivations. The terms are not inconvenient, though hardly self-explanatory. Derivations, according to Pareto, are the ideas and ideals which may be advanced by those concerned to explain and justify their behavior. Political ideas and ideals, he concedes, may spring from attempts to justify rational interests in the economic order. They are more likely, he argues, to spring from attempts to justify the persistent feelings and sentiments which, when manifested as political behavior, he pedantically calls residues. Upon these residues and deri-

vations Pareto relies as heavily in developing his philosophy of history as Laski upon his rationalizations. The Liberalism of the eighteenth and nineteenth centuries, for example, began, according to Laski, as a method of emancipating the rising capitalist class; and changed after 1789 into a method of disciplining the modern industrial proletariat. According to Pareto, this same Liberalism may have been merely an ingenious device for aiding the natural leaders of a changing world to win the new struggle for power and then to hold their gains. From this point of view, Laski's capitalists and proletarians are but the specific modern forms of the élite and the masses, into which, according to Pareto, mankind is universally divided.

It is not necessary for the advocate of a political interpretation of history to argue that both Laski and Pareto are wrong. Indeed it may be conceded that each has grasped a portion of the truth concerning the interpretation of history. But if each is partly right, neither is likely to be wholly right. Whether rationalizations or derivations are the more important factors in modern politics is a matter concerning which much can be said. The fascist triumphs and communist humiliations in recent years suggest that the derivations have been more potent than the rationalizations. Even the greatest of the communist triumphs, the successful establishment of the Soviet Union, a devotee of Pareto's interpretation of history would probably say, was a vindication rather of the Paretian than of the Marxist technique. Be that as it may, it is clear that communist as well as fascist leaders can exploit the residues of the mob. They too can qualify for places among the élite in lands where the masses seem to be far from ready for a genuine dictatorship of the proletariat. Pareto's *Mind and Society* is not only a practical working manual for demagogues; it is an effective rejoinder to the more extravagant claims of the historical materialists.

All that is contended for the political interpretation of history is that political ideas and ideals may be something more than either rationalizations or derivations. They may be natural inspirations, exerting an independent influence upon the course of events. It is, of course, obvious, that many political ideas depend upon the special interests of those who come to believe them or serve the private ends of those who exploit their belief by others. But it has never been shown that all political ideas belong wholly

to these two categories. It probably cannot be shown that all so belong. This probability is enough for the advocate of the political interpretation of history. He will never rest content with the view that political ideas and ideals are nothing but rationalizations and derivations.

The advocate of the political interpretation of history knows that a satisfactory interpretation of history cannot be based upon any simple formula. Teggart has exposed the speciousness of some of the most plausible of the simple formulae of the past. Toynbee and Alfred Weber have made clear the enormous complexity of historical processes. Amidst the variety of interpretations which possess some measure of validity, there is abundant room for a political interpretation. Scholars who still persist in the search for a rational interpretation of history need not hesitate to go back to Kant, and to conclude with him that a philosophical attempt to work out the universal history of the world according to the plan of nature in its aim at a perfect civil state must be regarded as possible, and as even capable of helping forward the purpose of nature.

Belief in the political interpretation of history does not require the unqualified rejection of economic and psychological interpretations. It is possible to agree with Charles A. Beard that there is an economic basis of politics. It is possible also to agree with Charles E. Merriam that there is a psychological basis of politics. It is essential to believe merely that there is a political basis of politics as well, and that the existence of a political basis of politics involves the possibility of a political interpretation of history. In other words, political ideas, like the economic relationships by which Laski sets such great store and the persistent sentiments which give rise to what Pareto calls residues, may possess intrinsic powers of their own, enabling them by themselves alone to influence, if not altogether to determine, the policies of governments and the development of states.

The claims of the various interpretations of history may be further tested by trial in the court of universal history itself. The classical Roman Empire was organized by politicians and defended by soldiers, but it was administered mainly by lawyers. In the Holy Roman Empire, however, at least during its greatest centuries, lawyers were relegated to a minor rôle, and the leading parts in the administration of imperial affairs were taken by priests.

Modern Marxists, aided by the solid advantages of hind-sight as well as by the Marxist dialectic, can offer a plausible explanation of the preference for a legal education in the training of civil servants in ancient Rome and for more attention to theology in training for the public service in the Middle Ages. But can Marxists offer any convincing explanation in terms of their peculiar dialectic for the fact that the Chinese Empire was administered mainly by students of political ethics rather than by either lawyers or theologians? Confucianism, whatever may have been its merits as a religion, was certainly one of the most effective systems of training civil servants that any great empire has ever possessed. Whether the Confucian scholars were better prepared for the public service than the lawyers and priests of the Western world, it would be unprofitable to debate. That they were on the whole, until very recent times, well prepared for the duties they were called upon to perform, the long, if checkered, history of the Chinese Empire affords abundant evidence.

But what was there in the economic condition of the Far East under the Chow Dynasty from which some unknown precursor of the modern Marxists could have predicted that the Confucianists, and not the lawyers of whom there were then a plenty, would eventually gain the favor of the occupants of the Dragon Throne and administer the affairs of the Celestial Empire? The modes of producing wealth were doubtless not precisely the same in ancient China as in ancient Rome or in the medieval West; nor were they the same in China throughout the course of her imperial history. Yet did not the Chinese Empire continue through many vicissitudes to be administered predominantly by Confucian scholars? It is impossible to escape the conclusion that the political and ethical ideas, taught by the Confucianists, constituted one of the bases of politics, independent of economic relationships and sentimental residues, and that the general acceptance of the Confucian political ethics in China explains in no inconsiderable measure the development of the Chinese Empire. By the same process of reasoning, we may conclude also that legal and religious ideas have played a more independent part in the development of Western institutions than Marxists and Paretians are willing to admit.

The objection may be raised to the political interpretation of history that it does not enable us to know in advance the course of human events. Laski, for instance, in his plea for the economic

interpretation of history, makes a great deal of this objection. Referring to some of the rival philosophies of history, he declares that "the trouble with all such theories is a simple one. They do not enable us to predict the probable future of events. They leave us blindfold before our fate." The Marxist theory, as understood by Laski, presumably avoids this trouble. The head of the Marx-Engels-Lenin Institute at Moscow, Comrade Adoratsky, is of the same opinion. In a recent exposition of the theoretical foundation of Marxism-Leninism, he quotes with warm approval the observation of Engels that "Marxism is not a dogma, but a guide to action." As a guide to action, the course of events since 1848 enables us to take its measure. Before condemning the political interpretation of history, therefore, for its alleged defective powers of prediction, it may be well to inquire how accurately the Marxists have been able to predict. In fact, the record of their miscalculations is well known. One illustration of their incapacity to predict will suffice—an illustration taken from the experience of Marx himself in attempting to grasp the meaning of one of the most sensational events of his own time.

During the years when Marx was earning a precarious living by writing European correspondence for the New York *Tribune*, the center of the political stage in the Far East was held by the sanguinary Taiping rebellion. On June 14, 1853, shortly after the Taiping rebels reached the peak of their power by the conquest of Nanking, the *Tribune* published an article in which Marx read the lesson of the rebellion for the people of the West. "Now England," he wrote, "having brought about the Revolution in China" (that is, as he believed, by forcing opium on the Chinese), "the question is, how the revolution will in time react on England, and through England on Europe." His answer to his own question was as follows: "It may safely be augured that the Chinese revolution will throw the spark into the overloaded mine of the present industrial system and cause the explosion of the long prepared general crisis, which spreading abroad will be closely followed by political revolutions on the Continent." That fatuous prediction was written over eighty-three years ago. Again, only ten years ago, Marx's spiritual heir, Trotsky, was equally confident that another Chinese revolution, then in progress, would cause the long overdue explosion in the "overloaded mine" of the capitalist system. But the revolution of the Kuomintang, like the Taiping rebellion, has run a very dif-

ferent course from what was predicted by the Marxists. As a guide to action, the orthodox dialectical materialism has been thoroughly tried and found wanting.

If it were true that the political interpretation of history affords only an uncertain guide to the future, it would not on that ground be more objectionable than other interpretations. But the question may fairly be raised, Is it desirable that men should be urged to believe that they can predict the course of future events? Consider, for example, the present plight of the communists, who have been taught to have faith in their powers of prediction. They have persuaded themselves that a dictatorship of the proletariat is inevitable. The fascists, on the other hand, while repudiating the notion that the basis of politics is exclusively or even mainly economic, appear eager to spread the opinion that the peoples of modern states must choose between the dictatorship of the poor under the leadership of the communists and that of the strong under their own natural leaders. Holding, as the fascists do, that there is a psychological as well as an economic interpretation of history, they wilfully believe that strong men can be the masters of their fate. This belief is one of the important causes of the momentary success of fascism in its struggle with communism for power. The fascist is confident that men can choose between communism and fascism, and consequently strives to bring about what he thinks is the proper choice. The genuine Marxist, on the contrary, assumes that in the long run the circumstances make the choice for the man, and, finding himself apparently on the losing side, concludes that he has been mistaken in his analysis of the situation. Thus, fatalism under adverse circumstances becomes defeatism, and power passes to the more vigorous leadership of the fascists.

It is not only fascists, however, who can profit by the faith in man's practical capacity to make a real choice. Democratic Republicans also, armed with a political philosophy which holds that accredited ideas, as well as vested interests and persistent sentiments, may be mighty for good or for evil, may believe both in human capacity to choose and in a wider range of choice than either communists or fascists. It is not the power of prediction, but the power to inspire faith in one's self and one's associates, that makes a political philosophy a vital factor in the course of events. A political philosophy which emphasizes the independent force of political ideas and ideals possesses that power. It puts formidable obstacles

in the path of those who would discourage the taking of thought for the improvement of human relations by urging the inevitable failure of all but one of the possible courses of political action.

Democratic Republicans are not blind to the signs of the times. They can see that modern methods of producing wealth are changing the structure of economic society and tend to bring about corresponding changes in the dominant ideas of sound public policy. They can understand how the profound modifications of the competitive system now visibly taking place compel the abandonment of the time-honored principle of *laissez faire* as the cardinal maxim of enlightened statesmanship. They may even concede that, since there is an economic basis of politics, there must be some alterations in the processes of government and in the structure of the state itself. It is clear that in the years ahead the sharper differentiation of economic classes and disturbances in their relative strength, like the unequal growth of different sections of the country in the nineteenth century, must have important effects on the course of American politics.

But it is very far from clear that Democratic Republicanism must inevitably succumb in the coming struggle for power. The division of the peoples of modern states into two economic or political classes does not exhaust the possibilities of classification in modern society. There are middle classes as well as upper and lower classes. The middle classes can believe in the possibility of rejecting both the policy of proletarian dictatorship and that of a dictatorship of the élite. They can believe further in the possibility of rejecting the economic individualism of the age that is passing away, without sacrificing also their democratic-republican principles of politics. The fates of American constitutional government and of *laissez faire* economics are not inextricably bound up together. Collectivism in its various forms presents possibilities for economic and political programs from which Democratic Republicans as well as communists and fascists can choose. Those who believe that political ideas constitute one of the independent bases of politics may well believe also in the practicability of such a choice and in the mission of the middle classes to maintain freedom to choose.

These considerations lead to the condemnation of all theories of politics which divide mankind into two sharply differentiated classes, whether superciliously termed the élite and the masses

or harshly called exploiters and exploited. There seems to be a tacit conspiracy between those who believe in an unqualified economic interpretation of history and those who intend to profit by that belief on the part of others without accepting it for themselves, to force the rest of mankind to choose between their two types of leadership. Professional students of politics will not be stampeded by any such conspiracy. They do not believe in the necessity for any such choice. There is no such simple dichotomy of the body politic. The classes into which the peoples of modern states may be divided are more numerous, less clearly defined, and more interdependent. The various theories of class struggle, whether advanced by communists or by fascists, make too little allowance for the observable facts of social and political classification. Above all, they make too little allowance for the existence and the power of the middle classes.

It is one of the great merits of a belief in the intrinsic power of political ideas and ideals—under the existing conditions, perhaps its greatest merit—that the classes which are most likely to gain strength through their faith in suitable political ideas and ideals are the middle classes. These are the classes which give character to modern states. By their nature and situation, they are clearly destined to be the guardians of rational ideals of justice and liberty. They are the classes which naturally find the greatest harmony between their own special interests and the general interests of the community to which they belong. Their political ideas and ideals are most likely to be what may fairly be called the democratic-republican ideas and ideals. The political philosophy which most promotes the strength of the middle classes constitutes, therefore, one of the best guarantees that Democratic-Republicanism will continue to flourish. The proper basis of such a political philosophy is a political interpretation of history.

THE PRELUDE TO AUTHORITY

FRANCIS G. WILSON

University of Washington

Crises in political synthesis are not without precedent. They must have occurred from time to time since the emergence of coherent political society. Indeed, any sharp divergence between commonly accepted ethical standards and temporal conditions is likely to produce a crisis in régimes. The last great debate in the West on the destiny of politics occurred in the later years of the eighteenth and the early part of the nineteenth centuries. The issue was formulated in terms of the basis of authority, just as it is at the present time. At that time, liberalism, with its uncertain conception of political organization, faced the old and tried historical authorities founded on the feudal and the divine conceptions of earthly power. Such men as Edmund Burke, von Haller, and the thinkers of the German historical school fought their losing battle against the tides in liberalism which seemed to them most pernicious. The new capitalism gathered into its fold the hunger for liberty and for the destruction of the arbitrary in government, but our crisis today rests on the fact that this capitalism and its multitudinous social implications are, in the minds of many, becoming unequal to the task of running the world as it is. As then, we turn to the past and defend the old, which is today the liberal system, and some even refuse to admit that there is any crisis at all. Yet to great numbers of men the historic conception of justice is no answer, and if they turn to history, they fail to see any light to guide them in the actuality of the hour. The old sources of inspiration become pale in the brilliant illumination of new anarchy of mind and system. Rationalism has retreated gracefully before the impact of psychology—both normal and abnormal—and in the breach has appeared the virile but barbarian doctrine of power and the pragmatic principle that history is objectively neither right nor wrong but success and failure.¹ It means that the old foundations of authority are left without loyalty. The ancient façades of power often become ugly and helpless when approached from behind.

¹ See Lord Acton, *The History of Freedom and Other Essays*, ed. by Figgis and Laurence (London, 1909), pp. 212ff., for his famous essay on Machiavelli and his influence in history.

The debate on the state in history, which is its crisis from the intellectual rather than the objective point of view, brings together again the old antagonists. And revolution as a process consists in the broader revaluation of men and standards of existence. Dialectic materialism offers a coherent and compelling answer to the riddle of how things come to be; it not only is a material and concrete answer, but it claims to be scientific as well.² An equally material solution appears in the theory of race as the foundation of culture; history makes its great turns around the biological fact of whether or not the creative race has destiny in charge. Again, the basis of the sweep of history is sought in the scientific fact of the cycle of cultural development which includes within it both the systems of production and exchange and race in so far as the latter is admitted in a purely biological sense. Or, history alone may be appealed to in order to demonstrate the organicity of the nation which time has generated. Religion in its place seeks authority and the meaning of events in time through the sovereignty of spiritual values and the hunger of men after the monistic significance of the All. The state itself becomes like a bobbing cork on a great and confused sea of intellectual anarchy. But whatever the interpretation of history, each can tell the individual the nearest approach that is possible to the long-desired human happiness. Removed from the trodden field of conflict, there is still the believer in the capacity of men to understand and use intelligently the fruit of science.

Thus we are all constrained to admit that there is a crisis in the economic, political, and social foundations of society. The world is "full of new wine." There is hardly a group of persons today with any clear consciousness of their own interests or desires who do not feel that the worldly pillars that support them are weakening. In every strata of social perception there is a feeling that the future is big with destruction and perhaps social crime. But this may be a passing sickness of the Western mind. It is possibly true that crisis is, after all, simply an illusion which blinds us to the long-range fecundity of our culture. Yet many affirm that there is a crisis in the state; that there is a crisis of régimes and alternative forms; that there is anarchy in human ideology; and that the new science of "totalology" has little more coherence at the moment than crumbling democracy.

² For a good short account of dialectic materialism, see Sidney Hook, "Materialism," in the *Encyclopaedia of the Social Sciences*.

There are today few old-fashioned integral defenders of democracy as it is.³ Some may say that democracy has never been tried, but this is much the same as to say that Christianity has never been applied, since men have not reached its theoretical perfection. Democracy must work with the materials that nature offers, that is, human beings with all their intellectual maladies in the conditions of an environment. Most thinkers admit that some changes must be made if democracy is to survive, and one solution which seems to be gaining more adherents than the others is that some elements of fascist organization and authority must be carried over into democratic liberalism. With this goes the further proposition that the Western principles of civil and political liberty must not be endangered. We must have, therefore, authority in the economic and social realms, but we must also retain intellectual freedom, or even moral anarchy.

This means that as a preliminary to the discussion of the creation of the future democratic authoritarianism we must reexamine the issue of civil and political liberty. Especially must we consider civil liberty, since the status of political freedom depends almost entirely on the answer to this phase of the question. In this gradual reconsideration, many immortal words may not continue to appear so lasting as they once did. Milton's historic ejaculation, "Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties," does not inspire the mind as it once did. Psychological and biological materialism have brought about this result with a startling degree of effectiveness. It has been suggested that one of the primary causes of the decline of Europe and the increasing weakness of Europeans *vis-à-vis* the rest of the world is the continuous acceptance of the notion of individual freedom, even though the single personality may not do anything worth while with his liberty.⁴ On the other hand, the question of civil liberty is one of the most fundamental in contemporary discussion. There may be information available in the future which will show that liberty is not nearly so essential to the progress of culture as the die-hard liberals have asserted. Likewise, the solution of this question in any direction, either for or against liberty, has the broadest social implications, and we may suggest that one of the most critical phases of the discussion is whether it is possible to

³ See E. M. Sait, *Democracy* (New York, 1929), *passim*.

⁴ See Wyndham Lewis, *The Art of Being Ruled* (New York and London, 1936), pp. 117ff.

organize and discipline the complex technological society on the economic side without at the same time taking the totalitarian implication that if this is done intellectual anarchy is impossible.⁵

The contemporary solution of the issue from the democratic point of view is that, while we must have authority, it is also possible and desirable to retain liberty in the older liberal interpretation. Let us combine the planning elements of communism with the authoritarian elements of fascism and graft them on the great residual intellectual freedom of the liberal system. This will enable a modified democracy to survive and to prosper; it will be a middle of the road solution of the economic issue of the present. It will solve the question of both liberty and authority, about which so much blood and ink have been spilled during the centuries. To the communist, of course, any sign of vitality in democracy is called fascism, and the left-wing attitude brands this suggestion as nothing less than the surreptitious introduction of fascism.⁶ One can hardly say that the tradition of liberty is an impregnable fort; we must admit that it is entirely possible that the liberty-loving Anglo-Saxons may become indifferent to this magistral value. The least that can be said is that the functional significance of civil liberty is a question, and that it does little good to evade the problem or to hide behind a cloud of unviable tradition. Nor can one deny that this question is closely related to a second issue of no less importance, the functional value of violence in the course of politics. The solution of the first question in one way or another throws considerable light on the answer that may be given to the second.

It is not conclusive, according to the liberals, to argue that civil liberty has not lived up to the promise attributed to it in the seven-

⁵ See Baron Joseph Eötvös, *Der Einfluss der Herrschenden Ideen der 19. Jahrhunderts auf den Staat* (Leipzig, 1854), Erster Teil, p. 47: "Das Prinzip absoluter Gleichheit kann nur durch eine absolute Staatsform realisiert werden, ob man diesen Absolutismus durch eine immer wieder neu vom Volke ausgehende Gewalt oder durch die auf einmalige Uebertretung der absoluten Gewalt des Volkes an einem Individuum oder eine Körperschaft ausgeübt werde, ob nur die Despotie im Gewande des Communismus oder in jener Formen auftrete. . . ." According to Spengler, "effective communism is authoritative bureaucracy." Oswald Spengler, *The Hour of Decision*, trans. from the German (New York, 1934), p. 129.

⁶ The communist denies that there is any real freedom in capitalist society for those who are not part of the exploiting group. Since the class struggle is the irreconcilable conflict of divergent points of view, there is no difficulty in the denial of freedom to the capitalistic oppressors once the proletariat has assumed power. See N. Lenin, *The State and Revolution* (London, 1919), p. 91.

teenth and eighteenth centuries. Civil liberty must have an evolving rather than an immutable setting, and it is entirely plausible that at one time its value will be greater than at another. Some types of men may be more able to use to their own and the advantage of society the liberty to speak and write; while others may become simply a general nuisance. In the first place, the great argument, Miltonic in scope and architectonic in implication, that free discussion is the gateway to truth is held in less reverence than formerly. Discussion may, as a matter of fact, serve more to consolidate prejudice rather than to dissolve it. The centuries of burning debate on the character of Catholicism and Protestantism is a striking illustration of this failure, as well as the long-run contention that justice and equity must and will win out in the competition of ideas. Much depends on the level of discussion, and the level attained depends likewise on the type of individual doing the discussing. But in the face of modern materialism, and the widely accepted proposition that man is in large measure a determined part of nature, men think less than formerly of the vitality of *free* discussion; in fact, there may not be such a thing as this type of examination. Discussion has not been associated with specialized competence or with any standards of selection.⁷

A very real phase of this question is whether scientific advance requires the freedom postulated in the days of religious controversy. The advance of science in Russia and some cultural levels maintained in authoritarian states might indicate that the old-fashioned freedom is not as fundamental as many have assumed. Certainly it can hardly be argued that freedom has actually provided the solution of the most critical issue of social organization. The economic organization of the world may, in fact, have been injured and disrupted because of the influence exercised on politics by the masses who have the electoral power to choose demagogues as well as the right to talk *ad infinitum* about questions concerning

⁷ See José Ortega y Gasset, *The Revolt of the Masses*, trans. from the Spanish (New York, 1932); Irving Babbitt, *Democracy and Leadership* (Boston, 1924). Civil liberty as an ideal loses much of its value if one rejects the rationalistic assumption that man is a creature with inherent and reasonable rights. To assume at least in part that man is a factor of objective historical circumstances denies the basic foundations of the conception of freedom. See Georges Sorel, *Reflections on Violence*, trans. from the French (London, 1914), p. 116, for the statement that before the democratic era it was held that the state was good and wise and hence it was a crime to hinder it, while under liberalism it has been believed that the free citizen makes the better choice.

which they know little. Science is somewhat impersonal; it serves war as well as peace; the criminal as well as the forthright citizen; it heaps its benefits upon the intelligent and the unintelligent. It is like the dew of heaven which falls on all alike. There is, therefore, not much evidence to indicate that the denial of civil liberties in the interest of a broader and more integrated social authority is a thrust at the vitals of *Naturwissenschaft*. In any case, it is hardly necessary that all should have freedom in order that the few creative minds may function effectively. To some, democratic experience indicates, if anything, that the popular distrust of the superior mind or the critical intellect is a hindrance to attainment in either social or natural science.

Has the assurance of civil and political freedom prevented the abuse of authority? That such would be the case has been one of the fundamental arguments for the freedom of the incompetent and the unintelligent. When we regard carefully the present situation of the world, the objective fact emerges that the freedom of many social groups has been lost totally or in part; arbitrary though purposive government has flourished latterly as the proverbial green bay tree. Something more than mere assertion is necessary to prove that liberty can prevent the resurgence of tyranny; in fact, it can be argued, as has been not infrequently suggested, that tyranny grows out of liberty. The more the liberty, the greater the aberration and the more the probability of that common result of perverted liberty—the social dictatorship and the authoritarian government. Free opinion may support as well as check authority. Inherently, there does not seem to be in the mere granting of liberty any necessary correlation between civil liberty and a lack of authoritarianism. We have discovered the prevalence of the manipulation of opinion, until it may be suggested that in order to protect liberty other devices than mere mass freedom will have to be established. The force of civil liberty in checking power is wholly relative to a considerable number of other factors. A multitude of men who are unconsciously tired of liberty, and who desire or respond to arbitrary leadership where the minority is concerned, is no guaranty against the abuse of power.⁸

⁸ See, in general, Walter J. Shepard, "Democracy in Transition," in this REVIEW, Vol. 29, pp. 1ff. (1935). It should not be forgotten that liberty in the eighteenth century served a revolutionary purpose—the assurance of freedom to those who worked to destroy the order of society as it existed. Perhaps many of those today who cry most loudly for civil freedom would be among those who would most

In the materialistic and technological age in which we live, the abstract argument for civil liberties as natural rights with no regard for functionalism carries little weight. We want to know today what purpose a right serves, and in this we are pragmatic and utilitarian. We want to know, not only whether people are happier because of the assurance of a right, but whether the conceded right is doing the mass of men any good. The abstract argument for the liberty of men is necessarily not based on experience; it is an ideology in the purest sense of the word. It is possible to argue that even if democracy and rights are ineffective in meeting the modern problems of government, they should be preserved; but not many today are willing to stake their future on such a proposition. If the abstract conception of the natural right to civil liberties is dropped, we are necessarily forced back upon a pragmatic relativism which may or may not be friendly toward the further continuance of given areas of freedom.⁹

The objective liberty to think and speak has been defended not infrequently on the Spinozean proposition that the state cannot destroy liberty. This depends in large measure on the state and the régime. Certainly, the liberal state is less competent than the communist in directing the thinking of the people. But what we know of the mechanical and physiological foundations of thinking lends less and less support to the old attitude of Spinoza and his like. It is becoming more and more possible to control in the long run the verbal and conceptual environment of the individual. The state that is highly ordered, the modern capitalistic or educational state, does direct the thought content of the average man; objectively, his liberty is limited and his speech is thus secondarily controlled with but a small display of terroristic coercion. The intellectual homogeneity of whole peoples proves the possibility of con-

abuse their power should they attain their ends. To Spengler, for instance, liberty is the means used by nihilism to level society. Cf. Oswald Spengler, *The Hour of Decision*, trans. from the German (New York, 1934), pp. 106ff.

* Civil and political freedom has been associated with the rise to power of the bourgeoisie. Public opinion is a force which sprang logically from the universalism of middle-class conceptions. In turn, the decline of bourgeois influence has the broadest implication as the decline of civil liberty and the belief in the generic idea of public opinion. Cf. Reinhold Niebuhr, *Reflections on the End of an Era* (New York, 1934), *passim*. With Pareto, it may be suggested that a critical semi-revolutionary literature weakens the decadent *élite* more than it strengthens the outsiders. The attack on the bourgeoisie today may, therefore, be debilitating to middle-class interests rather than a tonic to the proletariat. See Vilfredo Pareto, *Les Systèmes socialistes* (2nd ed., Paris, 1926), Vol. 2, pp. 36-37.

trolling what is within the mind of the individual. Likewise, the state that has a definite conception of its moral foundations has a clear interest in what is going on within the mind of the citizen. This interest, so patent in contemporary thought, will no doubt bring about the development of means whereby a closer supervision of mental content can be guaranteed.¹⁰ What we must admit is that within certain limits the state is competent to control the patterns of thought. Not a great deal of this, of course, is through rational means; rather, it is the fundamental technique described by Graham Wallas in *Human Nature in Politics* and by his followers. It is the exploitation of the infra-rational levels of the mind, in which emotions are grouped and stimulated for political purposes. The new technique of controlling through state action what is within the mind will concentrate more and more upon the experimental psychology of the habitual and emotional reaction.¹¹

Where the state is able to limit objectively the freedom of individuals to think, act, and speak with real freedom, the argument from the viewpoint of the nature of the state breaks down. It becomes a question not of power but of policy. We must remember here that civil liberty and the general right to be wrong or different from the rest of men touches in fact the minority, and in most cases only a small one at that. The very attempt at suppression of nuisance thinking and pernicious propaganda suggests the mass movement, and this implies a limited minority. A group that is less than fifty per cent is not infrequently so uncertain of its own points of view that it can offer no resistance to the strong assertion of public policy. It is the numerically weak but militant minority which fights with stubbornness the program of suppression. Short

¹⁰ The development of youth organizations in Russia, Italy, and Germany is ample evidence of the effort toward revaluation of political and social thinking. No one seems to deny the effectiveness of these devices in controlling what the rising generation is going to think. See, for example, H. W. Schneider and S. B. Clough, *Making Fascists* (Chicago, 1929). W. E. Hocking, *Man and the State* (New Haven, 1926), p. 160, stresses the internal character of the moral impact of the state on the individual. The state is not external only, as the idealists urged, for "to say that the state has no concern with the motives of action, whether of crime or of obedience would appear to be as untrue to fact as to say that a captain would have no concern whether the deference of the members of his company was sincere, so long as the military forms were observed." Hocking notes (*loc. cit.*) that those who make the state purely external fail to show how external conditions promote morality at all. See *ibid.*, pp. 95-96, 157ff.

¹¹ Cf. C. E. Merriam, *Political Power* (New York and London, 1934), p. 183. He states: "Embedded in the poverty of power lies much of the liberty of the world, safe from the hand of the aggressor who would take it away."

of physical annihilation, the state has not been able to dispose of such groups; but there are many ways of controlling and limiting the effectiveness of these individuals. The mere fact that the state is on its guard against them weakens their power in those critical junctures when they might exercise a disproportionate influence. It is certainly true that in liberal philosophy there is no clear delimitation of the boundary between liberty and authority. Even in the most thoroughgoing liberalism, the freedom of the individual is a relative and somewhat pragmatic affair.

However, we cannot escape the fact that the liberal attitude toward liberty tends to preserve some of it, in that the democratic spirit is against unnecessary encroachments upon the intellectual life of the citizen. The liberal believes in liberty as a principle, and this exerts a constant check on the tendency to expand the supervision of the state. While public education may be organized so that certain patriotic or civic values are presented and ground into the minds of children, the principle of control on matters of policy extends little beyond this so long as differences of opinion fall within the framework of the existing society. In contrast with this, however, the logic of totalitarianism is imperialistic. Totalitarianism signifies control, and it tends to expand if the social foundations of such a movement are present. The authoritarian state, by its own internal motivation, tends to spread the state into the interstices of the primary social agencies. All fields of human activity are potentially subject to the regulation of the community, though there will never be a dialectically perfect absolute or authoritarian state. All of the aspects of social existence must move to the official intonations of the state philosophy.¹² This control extends naturally to what the people are thinking and to what they say. It extends always to the regulation of what they may hear and read, that is, to the radio broadcaster and the publisher of books and newspapers.

The democratic epic has held that the long human effort to find some solution between the conflicting forces of liberty and au-

¹² This is true even of liberalism where liberty is a fundamental principle. Any group in a liberal society which denies the principle of liberty may be, logically, suppressed by the state. It has been suggested, for instance, that if democracy fights it can save itself from authoritarian movements (such as fascism and communism). This means, in short, the suppression of freedom of speech and political activity of certain types, as in the Netherlands, Czechoslovakia, and the Scandinavian countries. Cf. Karl Loewenstein, "Autocracy versus Democracy in Contemporary Europe," in this Review, Vol. 29, p. 593 (August, 1935).

thority was rewarded in the discovery of the universal formulae of liberalism. It is a basic criticism of liberalism and democratic government to suggest even that these liberal principles are limited as to time and as to applicability in space or social *milieu*. Half the battle for authoritarianism is won if we say that freedom is a relative and historical question, and that the lessons of the past in the fight for liberty (or social integration and control) may have little significance to the present or the future. We must recognize that the type of issue which is agitating the human mind is of vast importance in the question of intellectual and moral freedom. Some issues breed quickly and inevitably the spirit of intolerance and belief in the necessity of suppression, although this is not to say that the same issues will produce by any means the same results in all historical epochs. Tolerance and civil liberty are factors of the degree of conflict. Suppression requires energy and arbitrariness; it is in fact much more easy to tolerate than to suppress. Likewise, the intense issue of one age assumes a higher level of emotional flexibility in another. We tolerate today the same (and more) religious differences which in the sixteenth and seventeenth centuries led to wars and the sentencing of heretics. The misery of the disadvantaged groups is now a question for the whole of society; and the greatest subversive force in the modern world is the Marxian view which holds the perfectibilitarian thesis of an ultimate society in which inequality will rest on the principle: "From each according to his ability; to each according to his needs."¹³ What we do know is that social and political uncertainty creates the atmosphere in which intolerance and suppression are regarded as logically and ethically necessary.¹⁴

¹³ J. L. Gray, "Karl Marx and Social Philosophy," in F. J. C. Hearnshaw (ed.), *The Social and Political Ideas of Some Representative Thinkers of the Victorian Age* (London, 1933), pp. 116ff. Norman Wilde, in *The Ethical Basis of the State* (Princeton, 1924), pp. 6-7, remarks that "hardly has the religious conscience ceased from troubling than the State has had to meet a new rival for power, the struggle with which promises to surpass all others in seriousness." This new competition is industry and the issue of economic justice.

¹⁴ At the present time, the debate on the question of property arouses more passion than that on any other theme. Because of this, any attack on the system of possession tends to be pushed beyond the frontiers of liberalism. Socialism's position in the democratic fold is, therefore, uncertain at best. If liberty is a function of security, the present insecurity or that involved in economic reorganization naturally minimizes the importance of liberty. When used for revolutionary purposes, democracy ceases in short order to be democracy. Socialism can hardly be satisfied with the reforms which planned economy will sanction, since reform usually stops at the limit beyond which further concession means the destruction of the system.

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In the long run, one's attitude on civil freedom depends in large measure on the accepted interpretation of the process of history. Liberty is associated most validly with individualism, and this implies that law is ultimately spiritual and inward. Religion, therefore, may be said to complete its dialectical cycle in the postulation of spiritual liberty rather than in the suppression of the inward vagary. Truth may be objective as to the individual, since a series of historical events may be the concrete fruition of the scheme of salvation; but even so, the principle of religious living must be individual conviction and acceptance of truth. The fact that the state is formally an external and administrative institution, and that it bears by indirection constantly upon what the individual may think and believe, is the more profound reason for the historical fact of steady conflict between virile religions and strong states. Regardless of the social implications of religion, it must be happiest in those societies which are least authoritarian and most individualistic. The very circumstance that a great religion must try to live the fact that the most real forces in history are spiritual rather than material leads it to assert, at least in some form, the principle of religious liberty.¹⁵

Most other interpretations of the historical process attach themselves to some variety of materialism (or perhaps an Hegelian identification between the rational and real), and this drives *per se* to an acceptance of the principle of control over human beings. The test, even in rationalism, of proper conduct tends to be in practice a functional aspect of external conduct. If we believe with the National Socialists that race is the fundamental factor in the historical process, this is objective as to the so-called spiritual freedom of the individual; there is here no serious limitation on the function of the state in the preservation of that which accounts for the rise and fall of nations, states, and cultures. The end of community existence is postulated simply on higher or different levels from that of liberty from an individualistic point of view.

It is reasonable to assume that the planned society must suppress, or tend to, those who are farther to the left. See H. J. Laski, *The State in Theory and Practice* (New York, 1935), pp. 245, 251, 284, 289.

¹⁵ According to Proudhon, Luther's thought is the first authentic negation of authority, and it was in fact a plea for the authority of reason. What is reason?, asks Proudhon. He answers by saying, "un pacte entre l'intuition et l'expérience." P.-J. Proudhon, *Oeuvres complètes: Idée générale de la Révolution aux XIX^e siècle*, nouvelle édition (Paris, 1923), p. 186.

Let one assume that the primary factor in history is the rise, growth, and decay of a culture, and that history is made by specific cultures as they move along their arc of organicity, then again the material fact of a culture in all its complexity leaves little room for the assertion of a dogmatic right to liberty. Liberty is a relative factor which is dependent for its place on a much larger and uncontrollable context. Or, if we assume that there are various forms of determinism—economic, geographic, or otherwise—civil non-interference is a small and relative factor in the total picture of the natural process. It may be argued with some plausibility that science, instead of showing the necessity of liberty, does quite the reverse. Any state, however authoritarian, can permit and encourage the development of natural science and applied technics, but the issue is really that of social science. No doubt, in the long run, social science is as blind as natural science or as the much-lyricized Goddess of Justice. Social science can serve in the ranks of totalitarianism as well as in the less dynamic social structure of liberal democracy.

In fine, an attitude on the question of liberty in relation to the emergent necessity of authority in the technological age depends upon whether the liberal, rational dream will ever come true, or whether it is the function of discussion and social science to chart the functional aspects of the irrationalities which sweep the lowlands of history. If social struggle takes in a larger and more objective context, if it reaches the deep, inscrutable levels of intuitive evaluation and traditional belief, civil liberty may not be more than a passing phase of a particular aspect of Western civilization.¹⁶ It may be regarded by later generations as the bright jewel of the high point in our culture, and it may also be concluded that civil freedom was viable only during periods of comparatively peaceful post-revolutionary reconstruction. Social science today is admittedly bound up with the post-revolutionary rationalistic cosmology. Is there any necessity of assuming that this must always be true? May not science be founded ultimately on the acceptance of human non-rationalism as well as rationalism? One

¹⁶ H. J. C. Grierson, in *Carlyle and Hitler* (Cambridge, 1933), p. 27, declares that men want leadership, the hero, and therefore civil liberty tends to have a short and precarious history. See Vilfredo Pareto, *Les Systèmes socialistes* (2nd ed., Paris, 1926), Vol. 1, p. 301. Pareto here notes the A.D. 313 decree of Constantine and Licinius for religious toleration, but that soon the Christians began persecuting their religious opponents. There is (*ibid.*, pp. 300, 106-107) a general trend toward intolerance in mass religious movements.

may admit that the masses have a kind of objective rationality when they accept with gratitude the benefits of technical thrusts into the future; but it is more difficult to assume that the fruits of the rare creative minds which well up with social insight or expert knowledge are heeded in the decision of matters of high policy. The scientist has now the function of telling the leaders thrown up by a particular social swell what the probable results of their policy will be; the social scientist, as for example the economist, is an interpreter of the objective social environment. The political scientist, as a realist and descendant of the great Florentine, Niccolò Machiavelli, can tell something of the broader outlines of the movements of political support and non-support. He can chart within limits the categories of human behavior, and he can indicate something of the functional limits and creativeness of will. But if social science should get beyond its historical rationalistic assumptions, it may admit in general that the mass does not respond clearly and easily to the statement of complex social values.

In a period in which democracy is seeking to create within itself more authority, and in which anti-democracy launches openly and bravely along the iron path of authoritarianism, it is probable that all will agree that ultimately society must protect the intellectual grounds of the planned society. A world state with its economic and social regimentation would not necessarily be more tolerant than a national state struggling bitterly to bend and direct the great, blind forces of economic destiny. If there is a science of world statehood, i.e., cosmopolitical social science, it must, no doubt, be protected against the barbaric incursions of counter-universalist ideology. There must be, indeed there would be, the postulation of sufficient power to protect the system of order which has become the foundation of present and future relative human happiness. A League of Nations with power to prevent war must have also the power to prevent free speech which might advocate a resort to war, perhaps as a means to relieve the melancholy tedium of a world in which there is little struggle that is not entirely sublimated. That the same is true of the national synthesis follows without question. The principle of authority is contagious, and the very attempt to create in democracy sufficient power to plan through government the economic and social organization of a people must raise the question of liberty to criticize. This is especially true, once the planning is more than mere uncoordinated legislation. Planning itself is a symptom of social conflict, and it

is highly probable that the combination of intense social struggle with a definite conception of how society can be organized will bring in its train the limitation of liberty in even the most evangelic of liberalisms. Not only does a consciousness of decline in the vitality of a political system bring with it the circumscription of liberty to preach the unorthodox political and economic view, but also the establishment of a new régime on the ruins of the old, especially if the new system carries in it any substantial elements of authoritarianism, such as are implied in effective social planning.

Both directly and indirectly, the predominant note in the pragmatic age in which we live is the resurgence of authority. This directive in political thinking comes after a long period of somnolence in which liberalism and democracy have paid little attention to the course being taken by the creative energy of modern economic life. It is felt in widely different quarters that governmental non-interference, and even casual interference, is not enough; the connection between the government and the economic structure of a country must be intimate and synchronic. Governmental authority must be co-extensive with the social needs of a people. The use of this authority for the planning of economic and social well-being is generally accepted as a valid end of government. Outside of communism, it may be that this planning will take the form of social eclecticism, which is to say that no great and revolutionary steps will be taken in the recreation of the economic order. Law will become an instrument of authority in directing the economic life of peoples, and the chances are that law will now serve power and integration rather than liberty in the old sense of the word. Freedom will of necessity be curtailed in the economic sphere, and in other realms of activity in so far as is felt to be essential. The emergent authoritarianism of planned democracy will permit freedom within the necessities of survival, although when a new society, if ever, is established we can contemplate with confidence the restoration of freedom over more critical areas of human evaluation. Freedom is, properly, an attribute of an era of synthesis and not one of the chaos of antithesis.¹⁷

In communism and fascism, in the anti-democratic tide of the present, law and violence are made the supports of totalitarianism, and it must be presumed that law will emerge over and above

¹⁷ There is not much reassurance to be drawn, however, from the economic results of authoritarianism in any country, whether Russia, Italy, or Germany. Loewenstein, *op. cit.*, pp. 591-592.

violence only as the organization of society proceeds apace. The state is being turned over to the new governing *élites* which have been created out of the storm of political controversy and successful revolution. They are, as H. G. Wells has suggested, most like a modern Samurai, the necessary governing order in a coherent society. Governing belongs to this group, in the new theory at least, as a matter of right; the *élite* is the owner of political power and authority. In this we have the new patrimonial theory of the twentieth century; a theory in which the right of criticism is restricted within the governing group, or single dominant political party and body of superior counsellors. The essential standard of intellectual freedom and civil liberty in the new authoritarian societies is that criticism belongs to those who are competent, who by their very competence have a monopoly of the potential authority of organized society. In Russia, it has been recognized, for instance, that within the Communist party, that is, within the orthodoxy of the governing class or group, there should be freedom to criticize the directives of government.¹⁸ Beyond this, the masses of citizens are expected to perform their functions, to fill their stations, as Bradley might say, and thereby to become an organic part of the ideal, yet non-universal and pragmatic, community.¹⁹ In practice, the right of the governing *élite* to control the state may be little more than a mere question of power, but this is to be expected; for the power is the corporative possession of the ruling group. With von Haller, the modern patrimonial theory also holds that rulership is a question of power.²⁰

Those who say we must have an organic, i.e., integrated, political society must reexamine the question of civil and political liberty.

¹⁸ Otto Koellreutter, in *Grundriss der Allgemeinen Staatslehre* (Tübingen, 1933), pp. 256ff., notes that education in the liberal state presumes the ultimate equality between the rulers and the ruled, and that there is no stress on authority as such. On the other hand, the authoritarian state must educate for the state and for the people. There must be a conscious creation, through education, of a governing *élite*. In *ibid.*, p. 260, he observes that there can be only a free press and a free opinion within "den Grenzen der Bindung an Volk und Staat."

¹⁹ See H. G. Wells, *Experiment in Autobiography* (New York, 1934), pp. 691ff. An eighteenth-century view that is not dissimilar is that of the Marquis d'Argenson, who opposed the liberty to write and think, but who favored a wide range of social reforms under a regenerated monarchy and autocracy. See D. Mornet, *Les Origines intellectuelles de la Révolution française* (Paris, 1933), pp. 66-67.

²⁰ See Robert von Mohl, *Die Geschichte und Literatur der Staatswissenschaften* (Erlangen, 1855), Vol. 1, p. 257.

As a half-way measure, it may be asserted that we can copy certain of the ideas of fascist or communist authoritarianism, but it must be admitted that if we integrate society economically after bitter struggle, we will not be entirely appreciative of unorthodox or radical criticism. A synthesis of the day which captures the imagination of the ordinary citizen, that becomes a matter of mass faith, is going to be defended by all the means available. The defense of a new society will be waged within and without the categories of the law; but one thing seems fairly certain, and this is that people are not going to protect civil freedom under these conditions merely for the purpose of preserving some fragments of liberty.²¹ However symptomatic of the decline of democracy it may be, the prelude to the creation of the social authority deemed necessary in the modern age is the reëxamination of the principle of civil and political liberty.

In conclusion, therefore, the burden of showing that economic integration will not destroy civil and political liberty falls upon those who propose the material regimentation of human existence. It may not be unreasonable for those who see liberty as a part of a general individualistic historical context to be skeptical of the results of the destruction of economic liberty, or of the ability of the economic masters in the new order to draw the line between economic and other types of freedom. If the results of social policy do not always coincide with the formulated purpose, it may be true that a governing order based on a combination of the bureaucracy and mass support will bring authoritarian results that were hardly foreseen.

²¹ Various intermediate solutions can, no doubt, be found. Señor de Madariaga has suggested, for instance, a new policy on freedom of the press. In order to attain an expression of opinion in the press that is free from the propagandist restrictions of commercial journalism, the state should financially support news organs of various shades of opinion and subsidize them in relation to the strength of their supporting movements among the citizen body. There should be no political interference, however, with the free expression of opinion. See Salvador de Madariaga, "La Liberté et l'autorité dans le monde moderne," *Revue Politique et Parlementaire*, Vol. 158, pp. 225-242 (1934). It has been said, on the other hand, that what we need is freedom from the press. If the press is assumed not to be really free, it may be that the government is just as good an agency for the control of newspapers as private corporations whose primary interest is making profit for the owners. In an individualistic society, the free press is very essential in preventing a strong program getting started. The liberal state planner must seek a solution which will combine strong leadership with the free press. See G. P. Gooch, *Dictatorship in Theory and Practice* (London, 1935), p. 44.

THE STUDY OF ADMINISTRATION

MARSHALL E. DIMOCK

University of Chicago

It is now fifty years since Woodrow Wilson wrote his brilliant essay on public administration.¹ It is a good essay to reread every so often; there is so much in it that sounds modern, so much that will hold permanently true. "It is getting to be harder to *run* a constitution than to *frame* one." Was this said only yesterday? No, Woodrow Wilson clearly saw the importance of governmental administration half a century ago. "Administration is the most obvious part of government; it is government in action; it is the executive, the operative, the most visible side of government, and is of course as old as government itself." Yet democracies have badly neglected administrative principles and structural improvements. "Like a lusty child, government with us has expanded in nature and grown great in stature, but has also become awkward in movement. . . . English and American political history has been a history, not of administrative development, but of legislative oversight—not of progress in governmental organization, but of advance in law-making and political criticism. . . . We go on criticising when we ought to be creating."²

Political scientists owe Woodrow Wilson a debt of gratitude for opening their eyes to the broader importance and implications of administration. His keen mind also discerned the task which would occupy the attention of administrative theorists long after he was gone: "The principles on which to base a science of administration for America," he said, "must be principles which have democratic policy very much at heart." More clearly now than then, we realize that "we should not like to have had Prussia's history for the sake of having Prussia's administrative skill. . . . It is better to be untrained and free than to be servile and systematic. Still there is no denying that it would be better yet to be both free in spirit and proficient in practice."³ Freedom and democratic effectiveness may be one and the same thing. The ends of the state can be achieved only through an efficient administrative instrument. Hence, as Woodrow Wilson correctly observed, administration is "raised very

¹ Woodrow Wilson, "The Study of Administration," *Political Science Quarterly*, Vol. 2, No. 2 (June, 1887), pp. 197-222.

² *Ibid.*, p. 203ff.

³ *Ibid.*, p. 207.

far above the dull level of mere technical detail by the fact that through its greater principles it is directly connected with the lasting maxims of political wisdom, the permanent truths of political progress."⁴

Public administration is a process or a theory, not merely an accumulation of detailed facts. It is *Verwaltungslehre*. The object of administrative study should be to discover, first, what government can properly and successfully do; and secondly, how it can do these proper things with the utmost possible efficiency and at the least possible cost both of money and of energy.

Administration is generic.⁵ It is a social science concept which applies to all organized group activity. Administration arises whenever organization occurs. There are common problems and processes in the household, the school, the church, the business corporation, and the vast modern state. After deciding upon objectives, means must be devised for carrying out the program. This latter process is administration. Anyone who is responsible for directing the work of others thereby becomes an administrator.

An adequate theory of society must obviously be based upon a knowledge of administration. The importance of administration is in direct ratio to the complexity of inter-personal relationships and the number and utility of joint services. The more things that are done for the individual, the greater becomes the importance of organization. Many of society's most difficult problems, such as security for the individual and uninterrupted economic progress, boil down largely to matters of proper organization.

Ours has become an "administered" society. In spite of our wishful thinking to the contrary, complexity demands organization. With the growth of large business units, our economic life is seen as one whose results depend upon good administration. "Gradually but steadily," says Gardiner Means, "great segments of economic activity have been shifted from the market place to administration." In the development of further administrative coordination, concludes Dr. Means, economists "must come to political scientists for aid. We ask that you apply to the field of economic administration the technique of analysis and principles of organization which

⁴ *Ibid.*, p. 210.

⁵ It is significant that instead of qualifying the term with "public" or "governmental," Woodrow Wilson wrote merely about administration.

you have developed in the study of the state."⁶ Whenever social organizations are formed, common problems of organization, leadership, control, personnel, finance, and public relations are bound to arise. It is no exaggeration to say that in the future the balance of power among social institutions, and the survival value of each, will depend upon the relative success which each attains in applying administrative principles to the increasing concentration and complexity found in all fields of activity.

Because administration is the most obvious aspect of group activity, those who are unfamiliar with it are apt to assume that executive operations are not very difficult. By the same token, the study of administration is sometimes thought to be dismal and quite lacking in important theoretical considerations. These are mistaken notions. The competence of administration sets the limits of popular rule and democratic effectiveness. The state in action comes up against the imponderables which make government the most difficult of all fields of study. The carrying out of a program depends, in the last analysis, upon citizen compliance and coöperation. For every structural problem there are three or four psychological ones. Dry-as-dust administration does not do very much; successful executive leadership requires the combination of the best directive and personal qualifications which man can supply.

Administration is both social engineering and applied psychology. It is apparatus and mechanics, incentives and human nature. Let no one think it is merely the former. Nowhere is the need for psychology greater than in the organization, direction, and inspiration of men working in large groups. Outstanding administrative results are produced by spirit, morale, atmosphere; these, in turn, are the product of psychological mainsprings and invigorating incentives. As Benjamin Lippincott has recognized, both governmental and business administration resolve fundamentally into the rôle played by effective incentives.⁷

Modern governmental administration is a new synthesis. It is necessarily concerned with all fields of knowledge and all matters

⁶ "The realm of political science is, or lies within, the realm of social associations or administrative organizations," points out Dr. Means. Public administration, as viewed by Woodrow Wilson or Gardiner Means, constitutes the bulk of government—its very essence. See Means' article, "The Distribution of Control and Responsibility in a Modern Economy," in a symposium edited by Benjamin E. Lippincott, *Government Control of the Economic Order* (Minneapolis, 1935), pp. 1-17.

⁷ In the "Conclusion" to the symposium cited, p. 118.

which enter into the carrying out of official policies and programs. Administration is a means to an end. Hence, as tasks and objectives change, the instrument is also refashioned. That is why public administration may properly be called a "new" synthesis. Fifty years ago, with remarkable foresight, Woodrow Wilson visualized the kind of synthesis it should be; we have just about caught up with his concept.

Consider all of the fields from which administration must needs draw. History and political philosophy tell us what government has done in the past and what it is likely to do well. What the state is expected to do today is expressed in the law. "Every particular application of general law is an act of administration." The study also has roots in sociology, anthropology, and economics. The administrator seeks to solve problems; these are usually surrounded by complex social situations which allied social science disciplines help to explain. Administration does not operate in a vacuum. The public servant's subject-matter is medicine, engineering, law, finance, school-teaching, social service, or any one of dozens of other fields. Somewhere or other in government, every vocation and profession is represented. A knowledge of psychology is peculiarly involved in leadership, personnel, and public relations. Areal delimitation, organization, and control make use of engineering and rationalization factors. Economics supplies standards of measurement and evaluation, while public finance indicates the lines of fiscal policy.

Administration is concerned with "the what," and "the how," of government. The "what" is the subject-matter, the technical knowledge of a field which enables an administrator to perform his tasks. The "how" is the techniques of management, the principles according to which coöperative programs are carried through to success. Each is indispensable; together, they form the synthesis called administration. It is estimated that sixty per cent of all civil engineers are now publicly employed. What percentage of them know the "how" of governmental operations? The same question may appropriately be asked about school teachers, social service workers, and many other groups of public employees. All too many departments are filled with employees who "do not know their way around." Government suffers for want of executive leadership and aggressive administration.

The field of administration, then, is concerned with the problems

and powers, the organization, and the techniques of management according to which policy and program are carried out. The major policies are determined for the management either by a legislature, a board of directors, or some other policy agency. But this does not mean that the administrative side of the institution is unconcerned with law and policy. Increasingly in all large enterprises, whether business or governmental, the professional administrators are relied upon for advice and proposed programs. Then too, the executive branch is called upon to fill in the details of general laws, by means of sub-legislation, discretionary acts, the creation of standards, and decisions between the rights of parties in disagreement. The starting point of every administrator is an understanding of the law or laws that he is expected to carry out; he needs to interpret law into terms of policy and program.

Today we cannot accept unqualifiedly the generalization of Woodrow Wilson to the effect that "the field of administration is a field of business. It is removed from the hurry and strife of politics; it at most points stands apart even from the debatable ground of constitutional study. It is a part of political life only as the methods of the counting-house are a part of the life of society."⁸

Many is the time that officials have wished that this were true. But it is not; politics (in the sense of law or policy) runs all the way through administration. Group pressures operate directly and ceaselessly upon every branch and subdivision of public administration. Professor Herring's new book shows that when interest groups do not get what they want from the legislature they pursue the administration, and that when the lawmaking body capitulates, the organized interests keep tab on the executive agency to be sure that it performs its work to the group's satisfaction. One of the commonest expressions of the public servant is "every bureau has its clientèle."

Woodrow Wilson also erred in believing that administration has no close connection with the constitutional system and the general framework of government.⁹ Inadequate machinery is the principal cause of administrative inefficiency and ineffectiveness. In the last fifty years, there has been a remarkable improvement in the competence of public personnel and the methods employed by governments. In these respects, public administration has greatly out-

⁸ Wilson, *op. cit.*, pp. 209-210.

⁹ *Ibid.*, p. 211.

distanced business management. For example, in the installation and use of office techniques and labor-saving devices, such agencies as the United States Census Bureau and the British Post Office Savings Bank have stood in a class of their own, leaders for industry as well as for government. Where government fails is in the articulation of the levels of government, failure to abolish or consolidate needless political subdivisions, and in the discouraging slowness with which individual governments are reorganized and modernized. This is the realm of machinery. Until the mechanism is put into working order, competent administrators and modern techniques are ineffective, or at best only partially successful. Constitutional reform is the condition precedent to most far-reaching administrative improvements. If the basic design is wrong, minor repairs are bound to prove disappointing. This means that federal decentralization, regional devolution, county consolidation, the rationalization of special districts, and the internal reorganization of our larger governments are the most needed reforms in public administration. The most brilliant executive is sometimes broken by an inflexible and utterly unworkable organization system. Here government is handicapped. Business corporations can change their organizations whenever the president recognizes the need of it. Public officials must await the slowness and uncertainty of constitutional change. Political science would do well to level heavy guns on the amassed lethargy which stands in the way of structural reforms.

The American constitutional system of checks and balances makes it difficult to put into operation tried and tested principles of public administration. The lines of responsibility are not clearly marked. Unity of management is hard to achieve because of the fact that the executive is not recognized as the indisputable head of the administrative departments and independent establishments. Executive leadership and administrative control are effective only when the confines of the administrative hierarchy are definite, all units are included, and the lines of authority are simple. In the cabinet form of government, in the city-manager plan, and in the corporate set-up, responsibility and unity are assured. The same superiority is found in the use of staff services. It is the function of personnel, finance, and other staff officers to be helpful to the chief executive; staff persons should never issue orders directly to line officers. This is a universal principle of good administration. When the constitutional system incorporates responsibility at its

center, all staff services can readily be made to occupy their proper position. Not so, though, the American system of checks and balances: the civil service commission becomes a "control" agency; the chief finance officer is the servant of the legislature.

If a democratic people really desires the government to seek assiduously the ends of the state, it will construct the constitutional system so that the administration will be responsible and unified. The checks and balances system makes it necessary and inevitable to violate public administration's central principles. In a realistic analysis, the intimate interdependence of the constitutional and administrative structures will be closely observed.¹⁰ The fixity of our written constitution, the multiplicity of our governing units, and the failure to provide for responsible leadership and administration make our constitutional system a difficult one within which to build principles of public administration.

Some may question whether we know enough about administrative principles (or possibly whether there is enough that can be learned) to make a comparison between the rival claims of constitutionalism and administrative requisites. This is a fair question, because first principles have been relatively slow in emerging. However, this backwardness is due more to neglect in research than to the mysterious or impoverished character of the subject-matter. What are the component parts of public administration? About what subjects can principles possibly be formulated? The principal questions concern objectives, area, organization, finance, personnel, techniques of management, public relations, and external control. Whenever a coöperative program is to be set in motion, the logic and precedence are roughly as follows: what is to be done; what is the proper area; what form should the organization take; how shall it be controlled and operated; from what source shall its funds come; how shall the personnel be chosen and its interests cared for; what attention needs to be given to public interests and attitudes; and what forms of external control, if any, are necessary?

Planning is the first and most important step in administration.

¹⁰ There needs to be a closer working relationship between public law and public administration. I cannot agree with Woodrow Wilson that the distinction between constitutional and administrative questions is that "between those governmental adjustments which are essential to constitutional principle and those which are merely instrumental to the possibly changing purposes of a wisely adapting convenience." Basic design controls, and unless altered will rob administration of its vitality for social accomplishment.

The objectives of the program must be carefully thought out, and the administrative goals and procedures must also be given serious attention. Only when objectives are formulated clearly is an enterprise likely to develop a corporate philosophy and institutional *esprit de corps*. The goals determine, to a considerable extent, the administrative methods which will be found most efficacious. Strangely enough, many enterprises, among them some very large ones, fail in the first and most important step, the planning function.

There are some objectives of good administration which are sought by every form of enterprise, public and private, business and non-commercial. In the first place, as we have already suggested, there needs to be unity of management. This means that there can be only one recognized head of the organization, that all essential parts are joined and move forward together, and that control and direction of the going concern from the outside will not be tolerated. Unity is necessary for planning, synchronization, control, effective leadership, and *esprit de corps*. In the second place, the administrative entity should be flexible. It should be able to respond to changes in markets, technology, and tastes. Stated negatively, the enterprise should be free from red tape and rigid regulations and procedures. This suggests a third desideratum, namely, responsiveness. The establishment should look outward, not merely inward. This is to say that all procedures and attitudes should be attuned to consumer wishes and requirements. The outward, responsive attitude on the part of administrators is the crux of what has latterly been called "public relations." Finally, great administration is characterized by atmosphere, spirit—an institutional quality which is pleasing. This end-product of good management is the result of a combination of factors, chief among which are outstanding executive leadership, adherence to sound management principles, and considerate treatment of employees and customers.

It is not necessary to catalogue in detail principles of public administration for all of the component parts of the field. Our present purpose is to make it clear that theoretical formulations are indispensable in this age of large-scale enterprise, that there are universal rules to be uncovered, and that attention to the theoretical systematization of administration is badly and urgently needed. Concerning administrative areas, for example, we may

postulate the rule that boundaries should correspond as closely as possible to the composite of major problems within an area, adequate attention being given to administrative convenience, financial economy, and cultural attachments. Organization principles aim at a structure in which all authority is concentrated in the chief executive, lines of responsibility are hierarchical, staff officers clear through officials of the line, adequate attention is given to staff services, sufficient freedom is guaranteed to operating heads, and the entire organization is meshed at hierarchical levels and simply controlled at the top. There should be no more departments than there are necessary functions, and in no case more than the chief executive can control within the span of his attention and competence. The greater a person's responsibility, the more he needs to delegate tasks and the greater is the need for staff assistance. Personnel work should never assume control functions; its purpose is to help the executive plan and think. Accounting and auditing are separate responsibilities and should be treated accordingly in the organizational set-up. It is even more important that the executive should lead than that he should control. Authority and responsibility should be coëqual. The objects of public relations are to understand and to be appreciated. Finally, regular checks should be provided for the prevention or punishment of illegality, arbitrariness, discrimination, or discourtesy. The administrator should serve all, and none with special favor.

Principles of administration are applicable to all fields of human activity. Their equal applicability is particularly striking when very large enterprises are compared. The management problems and procedures in the American Telephone and Telegraph Company, for instance, are not unlike those which obtain in the federal government. Officials of the A. T. & T. find their most difficult management problems in the relation between headquarters and field, in reconciling operating autonomy and over-all control, in keeping delay and other evidences of red tape at a minimum. Any large government is constantly struggling with the same problems. Where is a sufficient supply of executive ability to be recruited, and how are men of extraordinary ability to be pulled up to the top without injuring the morale of those less gifted? Every large enterprise is perplexed by these problems. Even the undue influence of the Comptroller-General in federal administration has parallels in large corporations; it is always difficult to keep the finance man

effective and at the same time in his proper place. The larger business enterprises become, the more like governments they are. "Bureaucracy is inherent," confess business executives; "the only question is whether its objectionable characteristics are ineradicable."

None the less, there are important differences between large corporate enterprises and our larger governmental administrations. Democratic government creates distinctive problems for public administration. As a rule, only one difference is emphasized: the fact that most private businesses are judged by profitability and most government departments seek only the greatest amount of service. This difference is important, because, as we have already said, administration is ultimately reducible to effective incentives. However, we should not permit this factor of undoubted importance to withdraw our attention entirely from other governmental differences.

Business administration is essentially a dictatorship, or at any rate a monarchy. Administration under a democracy, on the other hand, is deliberately limited and checked. This difference in what may be called constitutional theory accounts, in part, for the unity of management which business management easily achieves and which government administration finds it so difficult to accomplish within the confines of the democratic structure. Hence, too, the greater freedom of corporate executives to make changes in organization, to be responsive to new situations, and to react quickly to consumer desires.

Governmental administration is less responsive than business management because it is more accountable. It must adhere to the law; this being the case, meticulous regulations are promulgated. Business executives are not so circumscribed. They may change rules and regulations when it suits their convenience or when the interests of the business seem to require it. The necessity of legal compliance is the principal cause of government red tape. In its name, of course, regulations and red tape may be carried much farther than they need to be. One of the chief means of improving governmental administration is to reduce the number of inflexible regulations which, like a set of law-books, the administrator has before him on his desk. How to make administration flexible and responsive and at the same time legally accountable and constitutionally responsible—this is one of the most difficult adjustments of democratic government.

Another advantage enjoyed by business management is the greater continuity of policy and executive leadership. It takes time and continuity to give programs a fair trial, to build up a unified administration, and to develop attachments to leaders and to the service. There are few such unbroken periods in a representative government. When one party is voted out and another in, old policies are likely to be stopped and new ones begun, whilst new faces appear in executive posts. These starts and stops, changes of leadership and losses of experience, are part of the cost which a people must expect to pay for popular rule. The price is not too high. Moreover, the upsetting consequences can be mitigated by producing a permanent administrative corps and giving it a proper amount of authority. We simply note this difference between government and business because it helps to explain the relative advantage, from an administrative standpoint, of one, and the difficulty of the adjustment of the other.

Governmental administration is more complex because of the nature of public duties. In large realms of social action, compulsion is necessary. Government regulates, prohibits, prosecutes. This means that public authorities must operate in a hostile or antagonistic atmosphere. Very few such situations arise in business administration; services are usually sought, or at any rate evoke a positive pleasure-response. Then, too, business services are relatively more simple because specialization is greater. Compare the problem of administering a large organization which sells one service or product, such as the telephone or a motor car, with that of a national government, which has within each department literally a score of diverse concerns. The United States Department of the Interior, for example, is charged with responsibility for matters so diverse as hospitals for the insane, oil wells, Alaskan bears, country schools, grazing rights, and universities. Specialization makes it easier to produce outstanding administration; concentration is one of the laws of success. The opposite is likewise true: multiple interests divide attention, make unity and coöperation difficult, and militate against institutional homogeneity and *esprit*.

It was once thought that an outstanding difference between business and government is that the latter is bureaucratic and the former is not. We now know that bureaucracy is generic, the result of size. Small governments are no more bureaucratic than small business units. Large governments are not necessarily more

bureaucratic than large corporations. Bureaucracy is a necessary implication of large size. Some of its results are efficient, while others are socially objectionable. The problem of administration is therefore to eradicate, if possible, those consequences of bureaucracy which are undesirable. They are the very ones we have mentioned, namely, inflexibility, disunity, unresponsiveness. The objectionable features of bureaucracy can be made to dissolve when sufficient amounts of principle are applied to large organization units. The need of outstanding executive leadership, staff assistance, decentralization, and functional specialization is in direct ratio to the size and complexity of the institution. Woodrow Wilson wisely remarked: "The object of administrative study is to rescue executive methods from the confusion and costliness of empirical experiment and set them upon foundations laid deep in stable principle."¹¹

The problem of the developing science of administration is like that of other social science disciplines in that it needs to become systematic and yet guard against insularity. The need for a consistent theory of large-scale administration is even greater today than it was when Woodrow Wilson wrote—less was known then, but the problems were nowhere near as great. The creative state and an "administered" economy have emerged within the last half-century. One needs simply consider the staggering significance of the administrative problems requiring solution and the empirical nature of attempted solutions to recognize the crying need for a systematic body of principles.

The answer is to be found in a broader view of administration than has heretofore obtained and in concerted attention to an underlying *rationale*. If the cultural view is steadfastly adhered to, insularity can be avoided. We do not want efficiency for its own sake; we want it for the sake of our democratic form of government. If administration were allowed to develop in a closed compartment, we should probably find that in a generation or so democratically-inspired people would have to tear down or reconstruct much that had been done in order to make the instrument conform to the life and temper of the people. Public administration in a democracy cannot expect to be concerned solely with efficiency.¹²

¹¹ *Ibid.*, p. 210.

¹² "An individual sovereign will adopt a simple plan and carry it out directly: he will have but one opinion, and he will embody that one opinion in one command.

The formulation of an acceptable theory and philosophy of administration is likely to be less difficult than the education of legislators and voters in the necessity of applying these findings. There is a natural distrust of a strengthened executive, and yet it is perfectly obvious that most administrative improvements, such as greater unity and flexibility, hinge upon the enhancement of executive responsibility. We need to educate our fellow citizens to see that the advantages of simplification, effectiveness, and responsibility more than offset the theoretical danger of abuse of power. Woodrow Wilson has stated the matter in his usual lucid manner: "There is no danger in power, if only it be not irresponsible. If it be divided, dealt out in shares to many, it is obscured; and if it be obscured, it is made irresponsible. But if it be centered in heads of the service and in heads of branches of the service, it is easily watched and brought to book. If to keep his office a man must achieve open and honest success, and if at the same time he feels himself intrusted with large freedom of discretion, the greater his power the less likely is he to abuse it, the more is he nerved and sobered and elevated by it. The less his power, the more safely obscure and unnoticed does he feel his position to be, and the more readily does he relapse into remissness."¹³

Administrators need to educate their masters. Democracy cannot survive unless basic programs succeed in accomplishing their objectives. On the other hand, the only kind of effectiveness which is acceptable to a democratic people is that which is produced by those who can be trusted. "The ideal for us is a civil service cultured and self-sufficient enough to act with sense and vigor, and yet so intimately connected with the popular thought, by means of elections and constant public counsel, as to find arbitrariness or class spirit quite out of the question."¹⁴ The acceptability of public administration principles is dependent upon their consistency with and contribution to those democratic values which the community is determined to preserve at all costs.

But this other sovereign, the people, will have a score of differing opinions. They can agree upon nothing simple: advance must be made through compromise, by a compounding of differences, by a trimming of plans and a suppression of too straightforward principles. There will be a succession of resolves running through a course of years, a dropping fire of commands running through a whole gamut of modifications." Woodrow Wilson, *ibid.*, p. 207.

¹³ *Ibid.*, pp. 213-214.

¹⁴ *Ibid.*, p. 217.

AMERICAN GOVERNMENT AND POLITICS

The Economic Limitations to Certain Uses of Interstate Compacts. Within recent months, increased attention has been given the possibility of utilizing interstate compacts to cope with problems that transcend the boundary lines of given states. A Council of State Governments has been created to promote such interstate agreements, and several states have established commissions to facilitate coöperation with this council. Compacts have been advocated as solutions not only for the problem of criminal extradition, but also for such problems as the control of the extraction of natural resources (e.g., coal, oil, gas, water supplies, and water power) and the conservation of their supply, and the regulation of milk prices, of the conditions of labor, and of the production and distribution of the services of certain classes of public utilities.

It is my purpose in this paper to indicate that the use of interstate compacts to solve important economic problems is greatly limited by the inherent nature of economic processes and economic interrelationships.¹ It is not my intention to appraise historical and administrative arguments designed to show the limited applicability of interstate compacts;² or to consider any legal questions other than the apparent economic implications of Article I, Section 10, of the Constitution, relative to compacts; or to advocate the superiority of control by compact over control by individual states, even though the criticisms of control by compact apply with even greater force to control by individual states.

I

It is generally accepted that the task of the economy of a community is to make such use of the more or less scarce factors of production as to satisfy the varied wants of the persons composing that community in the most advantageous manner possible. While the nature of these wants is conditioned at any moment by the culture of the community, the total importance of any one want, given a certain cultural *milieu*, depends upon the prevailing income distribution. This income distribution may be fixed either as at present by rewarding the owners of factors of production in

¹ The economic criticisms of the use of interstate compacts apply *a fortiori* to efforts on part of individual states to solve problems for which compacts are advocated. For a defense of uniform action by states, see W. B. Graves, *Uniform State Action* (Chapel Hill, 1934).

² Critics have urged: (1) that we have proof of the limited applicability of interstate compacts in the fact that nearly all of the compacts approved by Congress (24 in 1789-1918, 13 in 1918-31) have dealt with boundary disputes, engineering projects, and river and harbor traffic between adjacent states; (2) that the formation of significant compacts either has proved impossible or has been attended by years of delay; (3) that national administration and control is much more effective than regional administration and control.

accordance with their approximate productivity and modifying this result through taxation and through interference with the competitive processes, or as in a socialist state by basing income upon the principles of both productivity and needs.³ In either case, however, the efficiency of the economic system is measured, other things being equal, in terms of its capacity to satisfy most advantageously, over a designated period of time, the set of needs fixed by the culture and the income distribution of the community.

When states enter into an interstate compact in order to cope with a problem, whether important or not, the objective is control. When that problem is an important one of an economic nature, the objective is control of the processes of production, or of distribution, or of both.⁴ Control of production and/or distribution by means of interstate compact may be open to criticism on one or more of three grounds. First, control by compacting states may injure the inhabitants of non-compacting states. Second, the control sought may prove impossible of attainment unless all the states composing the United States enter such a compact. Third, the objective sought may involve ethical issues which can properly be dealt with in a democracy only on a national scale. We shall consider these grounds in order.

Article I, Section 10, stipulates that "no state shall, without the consent of Congress . . . enter into an agreement or compact with another state or with a foreign power." The purpose of this requirement of consent by Congress, whether explicit or implicit, is, so far as modern social and economic and other problems are concerned, to prevent abrogation of federal powers or the establishment, by some states, of compacts which are deemed injurious to other states. While the practical meaning of the above clause, as it applies to interstate compacts established to solve economic problems, depends ultimately and predominantly upon how the Supreme Court defines both an abrogation of federal powers and an injury to the citizens of other than the compacting states, the theoretical meaning of the term "injury" lies in the fields of economics and ethics.

For purposes of analysis, let us conceive of the United States as a closed

³ While finished goods and factors of production should always be priced, as the mathematical economists have shown, in accordance with their relative scarcity, allocations of income *per se* need not be based solely upon productivity. The objectives of collectivism are identical with those of competitiveness: (a) given a certain income distribution, to maximize the advantages securable from the available supply of the factors of production; (b) to establish such a system for the selection of leaders and such a system of communal controls as will at all times make available the largest technologically possible supply of productive resources.

⁴ A compact designed to establish control of certain prices, or of working conditions in certain industries, involves control of certain aspects of production and/or distribution.

economy, insulated from all contact with other economies.⁵ Let us assume, further, that a reduction in the real income of the non-compacting states constitutes an economic injury to the latter.⁶ Given these two assumptions, the economic consequences of any possible interstate compact must be appraised in terms of its comparative effect upon the economic fortunes, respectively, of the citizens of the compacting states and of the non-compacting states. Let us next suppose this closed economy, the United States, to consist, in respect to any specific economic problem, of two regions; the first, or A, including all states affected by that specific problem; the second, or B, including all states not participants in any coöperative or compacting action which the states composing the first region take in respect to that given specific problem.

There are three possible conditions under which a compacting action by the states comprising region A would not injure the economic interests of the states comprising region B: (1) when no effects of such action pass beyond the borders of A; (2) when either all the effects, or the net effect, of such action are/is favorable to B; (3) when the states comprising A arrange to reimburse B for any economic injury caused to states in B by the compacting action of the states comprising A. The practical and the economic feasibility of the use of interstate compacts to solve economic problems transcending the lines of given states must then turn upon: (a) the possibility of inducing all states in B (e.g., all states which produce oil) to enter a compact (e.g., in respect to oil control); and (b), the possibility of meeting the three conditions which we have specified. When it is impossible to achieve (a) and (b), there exists an economic reason for either *laissez faire* or action by the federal government.

Now let us test the applicability of interstate compacts to the solution of economic problems in the light of the above reasoning. The establishment, by a given number of states, of a compact providing for the control of some economic problem can injure the economic interests of the inhabitants of non-compacting states in one or more of three ways: (a) through elevating the price of commodities sold by the compacting states; (b) through increasing the supply of commodities sold by non-compacting states; (c) through depressing the demand for commodities sold by non-compacting states. Given such injury, and given, further, that the com-

⁵ In the real world, certain compacts may affect other states in the United States through the medium of international economic relations.

⁶ We shall argue below that any economic control which reduces the total economic income of certain states for certain periods of time must be justified on one of two grounds: (a) that the achievement of alleged national objectives is being furthered; (b) that fascism or communism is being checked thereby. Ground (b) is a special case under (a). The restriction of economic control to control by compact, if adopted as a national policy under (a), would necessarily constitute a rejection, on ethical grounds, of the objections advanced in this paper. See, however, below.

compacting states cannot or will not adequately reimburse the non-compacting states for such injury, it follows that the establishment of the compact clearly violates what seems to have been the intent of the framers of Article I, Section 10, relative to interstate compacts.

A compact may elevate the prices charged to inhabitants of non-compacting states for certain products of compacting states. For example if, as W. J. Donovan⁷ has suggested, a compact were established to control the production of cotton, the price per pound of cotton to the cotton consumers living in the non-compacting states would be raised. These consumers would therefore suffer an injury unless the compacting states made available to the non-compacting states a sum equal to the real purchasing power lost to the non-compacting states by the compact in question. Now if, as is generally accepted, the cotton-growing states grow cotton because their resources are comparatively suited thereto, it follows that such reimbursement would cost the compacting states more on the balance than the compact could yield. Hence, assuming observation of the intent of Article I, Section 10, the compact would prove either unworkable or absurd.⁸ The compacting states would not reimburse the non-compacting states, or would experience a reduction in total income as a consequence of the combined effect of the compact and the reimbursement. Generalizing, whenever the immediate result of economic control by compact is a use of resources less in accord with the laws of absolute and comparative advantage, the real income of the compacting states can be increased only at the expense of the non-compacting states.⁹ The real income of the compacting and/or the non-compacting states will not be reduced only if the compact causes resources to be used more in accord with the laws of absolute and comparative advantage.¹⁰

⁷ See *University of Pennsylvania Law Rev.*, Vol. 30, pp. 5-16 (November, 1931); *Annals of Amer. Acad.*, Vol. 160, pp. 82-83 (January, 1932).

⁸ The same economic criticism may be directed against the A.A.A. program. However, this program may be defended on the ground that its objective was national, not regional, in scope.

⁹ See B. Ohlin, *Interregional and International Trade* (Cambridge, 1933), and F. W. Taussig, *International Trade* (New York, 1927), for treatment of the problem of securing the most economical geographical distribution of industry.

¹⁰ If, as a result of the establishment of a compact, production within the compacting states were carried on more in accord with the laws of comparative and absolute advantage, the non-compacting states would tend automatically to gain. For even though the price of certain commodities sold by the compacting states would rise, others would fall as a result of the shift of factors of production to other types of production. Hence, assuming that the non-compacting states purchased from the compacting states more than one type of goods, the non-compacting states would, on the balance, get a larger volume of goods in exchange for things shipped to the compacting states. The problem involved must be analysed in terms of international trade theory as of a given moment of time, or, postulating increasing

If a compact caused restriction of the output of an industry located in the compacting states, there would be released from that industry factors of production which would enter into competition with similar factors located in the non-compacting states and thus decrease real income in the latter. For example, if the cotton-growing states were to form a compact to restrict cotton acreage, some of the acres and men and equipment hitherto employed in cotton-growing would engage in the production of corn and other products. The supply of these products would be augmented, their price would fall, and the incomes of non-compacting states growing such products would decline. Moreover, assuming that production had already been conducted in accordance with the laws of absolute or comparative advantage, the gain to compacting states would be less than the loss to the non-compacting states.

A third effect of interstate compacts in respect to economic problems has been implied in the preceding analysis. A compact may alter income distribution within the compacting area and thus alter the relative volumes of demand for different products produced in the non-compacting area. For example, if a compact served to divert income from, say, capital to labor, and if labor spent this income for different commodities than had hitherto been purchased by the owners of capital, business men in the non-compacting area who had hitherto sold their products to the recipients of income from capital would experience a decrease in gross and net income. Those who produced the products consumed by labor would experience an increase in gross and net income. The compact would thus alter the composition of the demand for products of the non-compacting area. Whether such an alteration could *per se* be interpreted as injurious, however, is doubtful, for the economy in the non-compacting area, given mobility of labor and capital, could be adapted to the changes in the demand for various products. If, however, the compact resulted in a less economic use of resources in the compacting area, the resulting situation would be that assumed in the first case postulated above.

Generalizing the three postulated cases, we reach this conclusion: whenever an interstate compact results in a use of productive resources which is less in accord with the laws of comparative and absolute advantage than was the use made prior to the establishment of the compact, the total income of the United States is decreased. Since, as has been shown, there are many economic interconnections between the compacting and the non-compacting regions, it would be impossible, in utilizing an interstate compact to deal with any important economic problem, to confine the effects of that compact to the compacting area. Accordingly, if the

returns as Marshall does, over a designated period of time. See R. F. Harrod, *International Economics* (New York, 1933), Chaps. 2-3.

purpose of a compact is an increase in the real income of the compacting area, and if the effect of that compact is a decrease in the economy with which resources are used, the resulting loss in income will probably be borne by the non-compacting states. Injury to the non-compacting states can be prevented only if they are reimbursed for the loss in question. This loss, however, necessarily exceeds the gain of the compacting states. It follows, therefore, that the only condition under which Congress can reasonably sanction such a compact is one under which the compact will have lost its *raison d'être*. In short, the only economic compacts to which Congress can reasonably give consent are those whose effects are completely confined within the compacting area, or if they transcend that area, do not on the balance reduce income in the non-compacting areas.¹¹

II

A second weakness of economic control by means of interstate compacts lies in the fact that some or all of the beneficial results¹² achieved through control by compact flow into the non-compacting states, whereas the non-beneficial results of the failure of the non-compacting states to enter into a given compact flow into the compacting states. For the number of states which can be brought into a given compact designed to establish uniform conditions of economic control will almost inevitably be less than the number which must be brought into a compact if the objectives sought through that compact are to be realized. Compacting states could avoid this second weakness only by converting the area of the compacting states into a closed economy, or by securing adequate reimbursement from the non-compacting states; that is, by means of remedies which are neither possible nor desirable from a national point of view.

The effect of economic control through interstate compacts is thus analogous to the effect of non-uniform taxation by states. Control by compact will have one of three possible immediate effects upon the relative price (or real income) per unit of given types of factors of production: (a) the price of all types will be raised, or the price of some will be raised and the price of none will be lowered; (b) the price of none will be altered; (c) the price of certain types will be lowered. For example, a compact may increase, decrease, or have no immediate effect upon the price of a given grade of labor; it may increase, decrease, or have no effect upon the return per unit of a given category of capital.

While the ultimate effectiveness of economic control by means of interstate compacts will not be reduced, given conditions (a) or (b), the ultimate effectiveness of such control will be reduced, given condition (c),

¹¹ See note 3 above.

¹² By "beneficial results" I mean results deemed beneficial by the compacting states, and hence sought by them through control by compact.

unless one of two further conditions is present: (1) the factor whose relative price is reduced cannot migrate to the non-compacting area; (2) the price of the factor whose price is reduced in the compacting area still remains above the price of similar factors in the non-compacting area. If, however, as a result of the establishment of a compact in area A, the price of factor X is elevated above the price being offered for X in non-compacting area B, units of X will migrate from B into A. And if the price of factor Y in area A is reduced below the price being offered for factor Y in B, units of Y will migrate from A to B. Accordingly, the objective of the compact, raising the price of X in A relative to the price of Y, will prove impossible, or nearly impossible, of accomplishment.¹³ To illustrate: if the immediate effect of a compact is to raise wage rates and to decrease the price per unit of capital in A, and if as a consequence labor migrates from B to A and capital migrates from A to B, wage rates in A will again be depressed to, or approximately to, or below, the pre-compact level, whereas the price per unit of capital will again be pushed toward the pre-compact level. The immediate effect of such factor migration upon total real income in A, in B, and in A+B, will depend upon whether such migration has caused all factors to be used more or less economically following the establishment of control by compact as compared with their use prior to the establishment of such control. The longer run effect of both the compact and of any consequent migration of factors will depend upon the extent to which changes in the relative prices of factors, caused by such compacts and migration, in turn influence the rate at which various types of factors are supplied.¹⁴

In the present section, we have argued that the detrimental effects of the failure of non-compacting states to establish controls similar to those adopted by the compacting states flow into the compacting states. In the preceding section, we argued that the detrimental effects of control established by compacts flow from the compacting into the non-compacting area. In the next section, we shall argue that both because of these two effects and because of other ethical and economic implications, important economic controls, when deemed desirable, should be national rather than regional in scope. For, however legalists define the meaning of "national in nature," important controls of economic life are rendered "national in nature" by economic processes.¹⁵ Such controls involve alterations of

¹³ We assume, of course, that the achievement of such an objective is economically possible.

¹⁴ The analysis in the above paragraph has run in terms of migration and counter-migration of factors. If there were no such factor migration, and if, as a consequence, the relative proportions in which factors are supplied in certain regions were altered, the effect of this alteration would be transmitted to other states through the medium of interstate commerce.

¹⁵ "Whatever subjects of this power are in their nature national, or admit only

specific prices in a system of nationally interdependent prices, an alteration of any one of which involves an alteration of some or all of the others, just as an alteration of the position of a marble in a bowl of marbles involves an alteration in the relative positions of some or all of the other marbles in the bowl.¹⁶

III

In the preceding sections, it has been suggested that both the establishment of controls by interstate compacts and the failure of certain states to establish certain controls may result in injury respectively to non-compacting and to compacting states. If it were possible to assess either the net injury to non-compacting states caused by the action of compacting states, or the net injury caused to compacting states by the failure of non-compacting states to establish similar controls, the injured states could be reimbursed. In view of the lack of adequate methods for measuring the practical extent of such injuries, it would be virtually impossible to make proper reimbursements. Moreover, it would be difficult to allocate equitably such reimbursements, if made, among the individuals living in the states receiving such reimbursements. Any method designed to secure equity as between states or between regions is thus beyond man's capacity to achieve.

Control of economic life presupposes certain ethical postulates in the light of which certain objectives appear desirable. These postulates, and hence the objectives based thereupon, may be implicit in the developing cultural system, or they may be the sheer assumptions of a few individuals¹⁷ who consider themselves representatives of certain interest groups. What is of immediate consequence, however, is not the source whence the advocacy of the objectives emanates, but the fact that the achievement of any other set of objectives than those being realized at any moment of time necessarily involves an alteration of the status quo, a shift of power and opportunity and income from some individuals and groups to other individuals and groups. Such a shift in turn presupposes conflict—conflict between interest groups or between aggregations of interest groups rather than between individuals as such.

of one uniform system, or plan of regulation, may justly be said to be of such a nature as to require exclusive legislation by Congress." *Cooley v. Board of Wardens* (1851), 12 Howard 299.

¹⁶ E. S. Corwin has observed that "production for the interstate market . . . knows no state lines." In view of the above analysis, not only production for the interstate market, but a large proportion of the production intended for the intra-state market, has effects which transcend state lines or the boundaries of the area within which production originally takes place. See E. S. Corwin, in *Cornell Law Quarterly*, Vol. 23 (1932-33), p. 502.

¹⁷ The distinction here made is one of degree, not of kind.

Conflicts involving economic objectives must be waged on one or both of two terrains. Conflicts over economic objectives always and of necessity involve economic interest groups, or economic strata. Conflicts of this sort are thus inherently vertical in nature. In proportion, however, as such conflicts occur within the boundaries either of an individual state or of a region comprising compacting states, they tend also to become horizontal in effect. For the controls to which such conflicts give rise involve, as I have indicated, overflows of detrimental effects from compacting to non-compacting areas and from non-compacting to compacting areas.

Since conflicts of the type described are ultimately inevitable, the social and political problem seems to be two-fold: (1) eliminating all inherently unnecessary conflict; (2) providing such an organization for the resolution of conflict between organized groups as will give to each a voice in achieving economic and political adjustment and will efficiently secure a constant re-balancing of interests.¹⁸ Conflict between states, or between groups of states, while not wholly avoidable, could presumably be reduced by relegating to the national legislature all economic controls whose effects necessarily transcend the area of any group of states that might establish an economic control by means of interstate compacts. Against this contention, but one possibly valid non-legal argument may be advanced, namely, that regional or state control constitutes the most effective means of preserving a democratic form of government, the most effective means of checking the growth of a centralized form of control which will metamorphose into fascism or into communism. The validity of this contention is contingent, however, upon: (a) whether or not centralization *per se* will result in, or foster the development of, fascism or communism; (b) whether or not state and regional control can be maintained against the consolidating effects of technological change and of concentration of financial control of industry; and (c) whether or not the desires of preponderating groups can be adequately or most efficiently satisfied within the framework of state and regional controls.¹⁹

¹⁸ See John R. Commons' interesting analysis of this problem in the *Amer. Econ. Rev.*, Vol. 25 (June, 1935), pp. 212-223; and cf. his *Institutional Economics* (New York, 1934).

¹⁹ Clues as to the possibility and probability of altering the status quo to achieve new objectives lie in the prevailing culture complex, in the matrix of history. The means of alteration lie in the comparative strength and capacity of pressure groups arising out of cultural situations. The function of social science consists in the interpretation of these trends, in the development of such a system of selecting economic and political leaders and methods as will most effectively enable the achievement of the ethical objectives which are implicit in the contemporary cultural development. See article by the writer in the *Internat. Jour. of Ethics*, Vol. 44 (April, 1934). See also further articles in same journal by Frank Knight (Vol. 45, 1932, pp. 200-300) and C. E. Ayres (Vol. 44, pp. 452-454; and Vol. 45, pp. 170-199, 356-358).

A satisfactory balancing of interests, whether of areas or of social groups, seems more likely to be achieved with minimum effort within the confines of a national legislature than within the confines of state or regional controlling bodies. Control on a national scale through the medium of a national legislature in which all interest groups are represented seems more flexible,²⁰ more amenable to change, more responsive to alterations in the strength of pressure groups and in the nature of objectives sought.²¹ Moreover, there is a greater probability that when the objectives sought involve temporary or permanent injury to certain regions, the inhabitants of such regions will be able to participate in the gains allegedly achieved elsewhere as a consequence of the attainment of these objectives. Finally, given a national rather than a regional method of achieving social objectives, the control of both the legislation designed to achieve given objectives and the institutions set up to foster such achievement is vested in the only legislative body comprising representatives of every area and class which may be affected by such legislation and institutions.²²

²⁰ Max Ascoli suggests, however, that too great a flexibility of the legal and constitutional structure is dangerous. "The fight for a greater and more indeterminate legal freedom does not allow the crystallization of traditions and of prestige around new constitutions. What we call constitutional democracy is only a very thin crust offering the basis for the development of our legal freedoms and protecting us from the underlying primeval world of sheer violence. Fighting for a freer legality, we run the danger of falling into a pre-legal world. . . . What is a constitution if not an attempt of human ingenuity to build up an artificial mechanical dynasty? This shell of laws was molded upon the personal power of the kings, as an instrument of legal engineering for accomplishing part of their functions and at the same time for limiting them. This shell can be filled with a constitutional king or with a president; it does not matter very much. But what does matter is that if the shell is broken, a form of personal power is bound to come back." See *Social Research*, Vol. 1 (May, 1934), pp. 183-184.

²¹ Frankfurter and Landis imply that the use of compacts will not make for an increase in the inflexibility of the nation's legal and regulative structure. "Congress does not surrender any of its powers; it merely finds no occasion for its present exercise of them. There is, therefore, no 'delegation' of its power in any legally significant use of the term. But Congress does not foreclose the future. If and when circumstances which now call for solution through compact change, Congress is wholly free to assume control." See *Yale Law Rev.*, Vol. 34 (May, 1925), pp. 726-727.

²² We may illustrate the need for truly representative control as against incomplete control through reference to a recent proposal of Dr. T. J. Woofter to the effect that the federal government subsidize the schools in parts of the South where families are large and the capacity to provide either education or economic support is meagre. Dr. Woofter justifies this proposal on the ground that the children educated at federal expense, i.e., at the expense of other states, migrate to other states and employ their acquired capacities there. While this argument seems valid as far as it goes, it ought also to be stipulated that the population be moved out of these poverty-stricken regions, that population growth in these regions be controlled, and that the school curricula be fixed by the federal government to meet the real potential needs of the students and of the other states to which such students will

Summary. In virtually every, if not in every, instance in which an important economic control by means of an interstate compact is or may be proposed, the compact will result in economic injury to the non-compacting states, or the failure of the non-compacting states to establish controls similar to those established within the compacting states will result in injury to the compacting states. The high degree of integration of economic life to which such boundary-transcending effects and injuries are traceable, combined with the necessity that policy be determined by and class conflict resolved within a body representative of all interests, renders national legislative control superior to either state control or regional control by means of interstate compacts.

JOSEPH J. SPENGLER.

Duke University.

The Presidential Veto Since 1889. In 1890, Mr. Edward C. Mason published in his monograph, *The Veto Power*, the results of his investigation of presidential vetoes down to 1889. In the present note, it is proposed to supplement the earlier study by presenting a short analysis of vetoes between 1889 and 1934.

By 1889, the direct veto had been applied to 435 measures. Of this number, however, over 200 were pension bills vetoed during Cleveland's first administration. Of pocket vetoes, there had been only 16.¹ From 1889 to the close of the Seventy-third Congress in June, 1934, the direct veto was exercised 235 times, and 292 pocket vetoes were recorded. In the hundred-year period from 1789 to 1889, 29 vetoes were overridden by Congress; in the 45 years from 1889 to 1934, 22 met reversal.² This increase in the number and proportion of vetoes is attributable to the increased amount and broadened scope of legislation resulting from the complexity of our social and political life.

Veto messages have set forth a great variety of reasons for disapprobation, but taken by and large the objections may be grouped into the two main classes mentioned above: (1) those based upon unconstitutionality; (2) those based upon inexpediency either in content or in form. In the

migrate. In brief, no grant of funds is defensible unless the providers of such funds control the effects of their expenditure. Spending by Congress does not, however, *per se* assure a representative, responsible, and economic use of funds and resources. For, as Corwin suggests, the spending power, which has eluded all constitutional snares and which has been employed and is being employed to attain indirectly the very objectives that Congress has been and is constitutionally prohibited from achieving directly, is "constantly exposed when left to itself to be overridden by corrupt amalgamation of thievish interests." See E. S. Corwin, *The Twilight of The Supreme Court* (New Haven, 1934), pp. 178-179.

¹ E. C. Mason, *The Veto Power* (Boston, 1890), Appendix D, p. 214.

² See Table I.

former group may be placed the comparatively few vetoes to prevent legislative encroachment upon the executive. In the total of 235 direct vetoes in the period surveyed, only eight were for executive protection, and these were of less practical importance than the larger group of vetoes based upon reasons of wisdom or expediency. In addition to these eight vetoes, five were based upon other constitutional grounds. These include Taft's veto of the Webb-Kenyon Act because it violated the interstate commerce clause, and his veto of an appropriation bill exempting certain agricultural and labor groups from the operation of the anti-trust laws; Wilson's veto of the war-time prohibition enforcement act; Coolidge's disapproval of the second agricultural surplus control measure,

TABLE I
SUMMARY OF DIRECT AND POCKET VETOES, 1889-1934

<i>President</i>	<i>Date of Administration</i>	<i>Congress</i>	<i>No. of Direct Vetoes</i>	<i>No. of Vetoes Overridden</i>	<i>No. of Unsuccessful Attempts to Override</i>	<i>No. of Pocket Vetoes*</i>
Harrison	1889-1893	51, 52	19	1	1	23
Cleveland	1893-1897	53, 54	42	5	9	124
McKinley	1897-1901	55, 56	6	—	1	35
T. Roosevelt	1901-1909	57, 58, 59, 60	41	1	1	40
Taft	1909-1913	61, 62	30	1	9	9
Wilson	1913-1921	63, 64, 65, 66	33	6	9	11
Harding	1921-1923	67	5	—	1	1
Coolidge	1923-1929	68, 69, 70	20	4	4	26
Hoover	1929-1933	71, 72	21	3	5	10
F. D. Roosevelt (to June, 1934)	1933-	73,-	18	1	—	13
Totals			235	22	40	292

* Based on House Document No. 493, 70th Congress, 2nd Session, up to December 22, 1928, and since then, on summaries of congressional sessions appearing from time to time in the *American Political Science Review* and in the *United States News*.

with its equalization fee clause involving a relinquishment by Congress of its taxing power; and Hoover's veto of the Muscle Shoals bill on the ground that it deprived the states of their constitutional right to tax property within their borders. In short, the 13 vetoes exercised on the ground of constitutionality, whether to prevent encroachment upon the executive or to protect Congress's own powers, are only approximately one-twentieth of the total number of direct vetoes. Two of these 13 were overridden—both of them, curiously enough, dealing with liquor control, i.e., the Webb-Kenyon Act of the Taft administration, and the war-time

prohibition enforcement act of the Wilson régime. No veto imposed to protect the executive from legislative encroachment met reversal.

In the broader class of vetoes based on wisdom or expediency fall, first, those measures private in nature, such as pensions and various types of private claims;³ and second, measures involving public matters of sectional interest (such as the creation of additional judicial districts and the erection of public buildings), as well as measures dealing with general public or governmental policies. One hundred and three of the 235 direct vetoes were applied to bills classified as pension or private claims, and disapproved for a variety of reasons, notably technical faults in drafting, false or unjustified claims, and considerations of economy. Presidential determination to defend the public treasury and to check extravagant pension or private legislation often faced congressional hostility; yet only three vetoes arising from this source met reversal, all being pension bills during the Fifty-fourth Congress (1895-97), under Cleveland. Of the public measures, 20 dealt with legislation of sectional interest and 20 with Indian matters, every President with the exception of Harding having disapproved at least one Indian act.⁴ One such veto met reversal in the Sixty-sixth Congress (1919-21), in Wilson's administration.

The remaining 79 vetoes in the class based upon expediency—a fraction more than one-third of the total vetoes—were of bills which, in presidential opinion, were contrary either to established governmental policy or to the best interests of the public welfare. In this group are included such measures as the silver coinage act of the Cleveland administration; the census and water-rights bills under Theodore Roosevelt; the five tariff acts and the joint resolution admitting Arizona to statehood, with its constitutional provision for judicial recall, in the Taft administration; the immigration measures, with their literacy test clauses, under Cleveland, Taft, and Wilson; the army enlistment act and the resolution for a separate peace with Germany, which fell to the lot of Wilson to consider; the recurring bonus measures with which Harding and his three successors had to deal, and on which, with the exception of Harding and Franklin D. Roosevelt (in the period here dealt with), each suffered defeat; the McNary-Haugen agricultural surplus control act of Coolidge's administration; and the Philippine independence act of Hoover's term. In addition to these measures which in themselves sought to enact legislation deemed by the Executive indefensible or unwise, mention might be made of those appropriation measures, notably in the Taft and Wilson terms,

³ Harrison, 7; Cleveland, 28 (18 pension, 10 private claims); McKinley, 4; T. Roosevelt, 23 (2 pension, 21 private claims); Taft, 10; Wilson, 9; Harding, 1; Coolidge, 3; Hoover, 3; F. D. Roosevelt (to June, 1934), 15.

⁴ Harrison, 1; Cleveland, 4; McKinley, 2; T. Roosevelt, 2; Taft, 1; Wilson, 1; Coolidge, 4; Hoover, 4; F. D. Roosevelt (to June, 1934), 1.

which contained riders so objectionable that the President refused to be a party to them. In only 13 instances in this group of 79 vetoes did Congress disregard presidential objection and repass the measure.⁵

Since the major portion of the balance of unreversed vetoes relates to legislation of importance, the conclusion may be reached that the veto is effective in preventing the enactment of measures judged by the Executive to be of doubtful expediency or constitutionality. Giving weight to this deduction are the many vetoes of unwise Indian legislation, of bills of purely sectional interest, and of private pension and relief measures which, in varying number, all Presidents have disapproved and vetoes of which, with a few negligible exceptions, Congress has made no attempt to reverse. Furthermore, in many instances the presidential veto has been instrumental in the passing of subsequent legislation from which the objectionable features of the original measures were omitted. This is especially noticeable in the case of the many appropriation bills disapproved because of riders, and in the recasting of the decennial census act in the administration of Theodore Roosevelt.

Table II shows the relative frequency of direct vetoes, both sustained and overridden, in "controlled" and in "divided" or "adverse" Congresses. By a "controlled" Congress is meant one in which both houses are controlled by the President's party. "Divided" or "adverse" Congresses are those in which one or both houses are dominated by the party opposed to the President. It will be seen that in the period of politically controlled Congresses, covering 33 of the 45 years from 1889 to 1934, there were 150 direct vetoes, and 25 (16.6 per cent) attempts to override the veto, of which nine (36 per cent) were successful, and 16 (64 per cent) unsuccessful.

The period of politically divided or adverse Congresses covers 12 of the 45 years under consideration. In this period, there were 85 direct vetoes, and 37 (43.7 per cent) attempts to reverse the veto, of which number 13 (35.1 per cent) were successful, and 24 (64.8 per cent) unsuccessful. When

⁵ These include (1) the river and harbor appropriation bill in the Fifty-fourth Congress (1895-97), under Cleveland; (2) the immigration measure with its provision for a literacy test, finally repassed after three previous unsuccessful attempts, during the Sixty-fourth Congress (1915-17), during Wilson's first term; bills dealing with (3) daylight saving repeal, (4) reestablishment of the War Finance Corporation, and (5) army enlistment in the Sixty-sixth Congress (1919-21), during Wilson's second term; (6), (7), and (8) the bonus bills in the Coolidge Sixty-eighth (1923-25), the Hoover Seventy-first (1929-31), and the F. D. Roosevelt Seventy-third (1933-34) Congresses; (9) war emergency officers retirement act, (10) night postal service pay measure, and (11) fourth-class postmasters' compensation bill—all in the Seventieth Congress (1927-29) of the Coolidge administration; (12) the Spanish War pension increase measure of Hoover's Seventy-first Congress; and (13) Philippine Independence Act of his Seventy-second Congress (1931-33).

the time element in the distribution of Congresses is considered, these figures assume importance, for they indicate that in the 12 years of politically divided or adverse Congresses the direct veto was exercised more than one and one-half times as often as in the 33 years of politically

TABLE II
USE OF THE DIRECT VETO IN CONTROLLED, DIVIDED, AND
ADVERSE CONGRESSES, 1889-1934

CONTROLLED CONGRESSES									DIVIDED OR ADVERSE CONGRESSES		
No. Unsuccessful Attempts to Override	No. of Vetoes Overridden	No. of Direct Vetoes	President	Congress	Date	No. of Direct Vetoes	No. of Vetoes Overridden	No. Unsuccessful Attempts to Override			
1	—	15	Harrison	51	1889-91						
				52	1891-93	4	1	—			
3	—	18	Cleveland	53	1893-95						
				54	1895-97	24	5	6			
1	—	2	McKinley	55	1897-99						
		4		56	1899-01						
		15	T. Roosevelt	57	1901-03						
				58	1903-05						
		14		59	1905-07						
1	1	12		60	1907-09						
		8	Taft	61	1909-11						
				62	1911-13	22	1	9			
1	—	4	Wilson	63	1913-15						
	1	4		64	1915-17						
				65	1917-19	5	—	3			
				66	1919-21	20	5	5			
1	—	5	Harding	67	1921-23						
1	1	3	Coolidge	68	1923-25						
—	—	4		69	1925-27						
3	3	13		70	1927-29						
4	2	11	Hoover	71	1929-31						
				72	1931-33	10	1	1			
—	1	18	F. D. Roosevelt	73	1933-34						
16	9	150				85	13	24			

controlled Congresses; that, although within the respective groups themselves the percentages of both successful and unsuccessful attempts to override the veto were almost identical, four times as many attempts at reversal were resorted to in the years of politically divided or adverse Congresses as in those controlled by the President's party; and that in

the former period, congressional reversal occurred approximately four times as frequently as in the latter.

KATHERINE A. TOWLE.

University of California.

Tightening the Direct Primary in Michigan; First Applications of the Filing Fee. Taking note of the constantly increasing number of persons who were seeking nomination to public office in Wayne county, Michigan, a special election laws commission (1930) recommended a change in the laws governing the primary. The recommendation, accompanied by a draft of a bill, proposed to make it somewhat more difficult in that county for candidates to qualify for a place upon the primary ballots. The legislative response to this recommendation was an innocuous amendment providing for the deposit of a small filing fee as an alternative to the nominating petition. However, primary abuses during the depression years convinced the legislature that more drastic action was necessary, and in 1935 the election laws, as applied to Wayne county, were again amended abolishing the nominating petition and substituting the filing fee for "candidates for county office or office in the state legislature."¹ A similar provision was imposed by charter amendment for municipal offices in the city of Detroit.²

Those who were instrumental in effecting these changes in the election laws believed that the new requirement would tend to deter many frivolous candidates; but none was naive enough to believe that the introduction of the filing fee was a panacea for all primary abuses. There was also a general feeling that these initial provisions were defective in some respects; but, since they were more or less experimental, it was thought expedient to put the acts into operation and to proceed by way of amendment, attempting to strengthen the law as defects appeared in its application. The provision as applied to municipal elections in Detroit produced gratifying results in its initial test.³ The state law was first applied in September of this year, and its effects upon the conduct of the primary may now be studied.

This note is an attempt to evaluate the law upon the basis of its first application. Attention is directed, first, to the law as a step in the direction of a shorter primary ballot, and second, to features of the law which obviously need strengthening. The conclusions presented here were arrived at from a comparative study of the results of the past three primaries. The writer is well aware that, owing to unsettled political conditions in Wayne county, future primaries conducted under the existing

¹ Public Act No. 60, *Public Acts*, 1935. See "Tightening the Direct Primary," in this *Review*, Vol. 30, pp. 512-522 (June, 1936).

² *Ibid.*

³ *Ibid.*

laws may produce results not entirely in harmony with his present findings. Persons thoroughly familiar with the political situation in Detroit are agreed upon this point.

The extent to which the deposit requirement tended to shorten the primary ballots may be determined from an analysis of the figures presented in the accompanying tables.⁴ In Table I is presented an analysis of the past three primaries in Wayne county. It will be noted that many

TABLE I
WAYNE COUNTY PRIMARIES, 1932-36

Office	Total Number of Candidates			Candidates per Nomination			Percentage of Change		
	1932	1934	1936	1932	1934	1936	1932-34	1934-36	1932-36
State senate	100	172	72	7.2	12.3	5.1	+ .72	- .581	- .28
State legislature	196	199	141	4.7	4.7	3.4	+ .015	- .291	- .28
County*	100	133	78	5.0	6.0	3.9	+ .33	- .413	- .22
Total	396	504	291	5.2	6.5	3.7	+ .212	- .423	- .265

* The figures presented in this tabulation represent the numbers of candidates seeking nomination to offices which are filled every two years. There are ten such offices. All others were eliminated in order to obtain as uniform a study over the period as possible.

more candidates sought nomination in the primaries of 1934 than in the presidential year 1932; and that there was in 1936 a perceptible decrease in the number of candidates, in all classes, when compared with the numbers in either of the earlier primaries—a total decrease of 26.5 and 42 per cent, respectively. However, these percentages, standing alone, are not necessarily of great consequence; hence, Tables II and III are presented.

It is of interest to observe a decrease, also, in the number of office-seekers in all categories in these latter tables. But, in contrast, attention must be directed to the fact that the decreases in Table II, all offices where the nominating petition has been retained, are only approximately 25 per cent of the decreases in Wayne county where the fee is mandatory. Likewise, the figures presented in Table III form the basis for a second interesting comparison.

⁴ Certain discrepancies will appear if the figures presented here are compared with those in the tables accompanying the note on this subject in the June issue of this REVIEW. These discrepancies arise from slight changes in classifications, which will be noted from the offices listed in the tables, and the exclusion from consideration here of all county offices which are not regularly filled at two-year intervals.

TABLE II
OUT-STATE PRIMARIES, 1932-36

Office	Total Number of Candidates			Candidates per Nomination			Percentage of Change		
	1932	1934	1936	1932	1934	1936	1932-34	1934-36	1932-36
State senate	100	87	92	2.0	1.7	1.8	-.13	+.058	-.08
State legislature	341	345	321	2.2	2.2	2.0	+.012	-.067	-.059
Total	441	432	413	2.1	2.1	2.0	-.02	-.044	-.063

TABLE III
CONGRESSIONAL PRIMARIES, 1932-36

Office	Total Number of Candidates			Candidates per Nomination			Percentage of Change		
	1932	1934	1936	1932	1934	1936	1932-34	1934-36	1932-36
Wayne county	149	76	75	14.9	7.6	7.5	-.49	-.013	-.496
Out-state	76	60	69	3.2	2.5	2.9	-.21	+.15	-.092
Total	225	136	144	6.6	4.0	4.2	-.39	+.059	-.36

Candidates seeking nomination to Congress do not come within the provisions of the act. Thus, all such candidates, in Wayne county as throughout the state, are required to file nominating petitions; yet the final figures disclose a decrease in the number of congressional candidates from Wayne county, over the four-year period, of approximately 50 per cent, in contrast to a decrease of only 26 per cent in the fee-paying groups. However, in defense of the fee requirement, it must be observed that almost all of the decrease in the number of congressional candidates came in 1934 rather than in 1936, and at a time when the total number of candidates considered in Table I increased by 21 per cent. To emphasize the point further, the decrease in the latter group, following the enactment of the present law, stands in sharp contrast with the two per cent decrease in the number of congressional candidates. Thus, although there were substantial decreases in the number of candidates for all offices in Wayne county, it appears safe to conclude that the decreases in the two groups cannot be attributed to the same causes; and, consequently, the fee system does not stand discredited upon the basis of this comparison. To determine the extent to which these decreases should be directly attributed to the fee system is somewhat more difficult.

Referring again to Table I, it will be observed that there were more candidates for all local offices in Wayne county in 1934 than in 1932, a presidential year; but that in 1936 there were by far fewer candidates than in either of the two earlier primaries. In view of the increase in 1934 over the numbers in 1932, it would not have been unreasonable to anticipate a further increase in the number of candidates in the primaries of this year. However, in spite of the temptation to attempt to ride into office in the wake of a presidential election, there was an actual decrease of 42 per cent in the number of candidates. This percentage, friends of the idea may conclude, is fairly indicative of the deterrent possibilities of the system. However, this mathematical comparison is not necessarily conclusive.

On the other hand, it may be contended that the figures presented in Table I are meaningless—that the sharp rise in the number of candidates in 1932 and 1934 may be attributed to unemployment, business lag, and consequent political unrest. This argument finds support in the fact that there was an immediate decrease in the number of candidates with the return of economic normality as reflected in the automotive industry. Further support for this proposition will be found in a comparative study of the primaries in the presidential years 1928 and 1936. The latter primary produced 72 candidates for the state senate and 141 candidates for the lower house, while in 1928 only 40 and 138 persons sought nomination to these same bodies—a greater number than appeared in either 1926 or 1930. However, this comparison, which argues against the merits of the filing fee, requires some explanation.

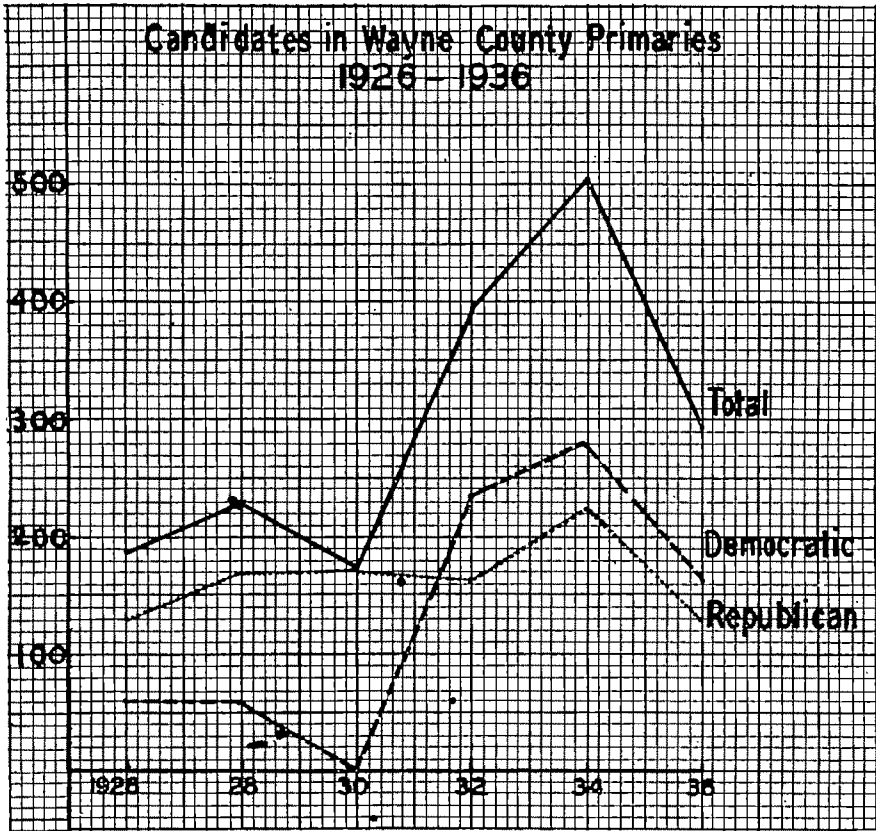
Prior to 1932, Michigan was recognized as a solidly Republican state and, in spite of a large but widely scattered minority, the Democratic party was poorly organized and in many cases inactive. This latter fact was emphasized by the general assumption that nomination in the Republican primary was tantamount to election.⁵ Thus, prior to 1932, the Democratic party did not contribute in great numbers to the group of office-seekers; in fact, in 1930, the party did not hold a primary in Wayne county.

However, the party has been rehabilitated and, at the present time, threatens to dominate the political scene in the metropolitan area of the county. This renewed activity has tended to increase the number of candidates on two fronts. The reorganization of the party has not only produced a host of Democratic office-seekers, but, having successfully challenged Republican leadership from without, has encouraged challengers for

⁵ In the election of November, 1930, the Republican party elected a United States senator, made a clean sweep of all state offices, elected Michigan's 13 congressmen, and claimed 31 of the 32 seats in the state senate and 98 of the 100 seats in the house.

leadership within the ranks of the party and thus increased also the number of Republican candidates. Economic conditions and intra-party contests for leadership have undoubtedly contributed to the unfortunate situation; yet the writer is convinced that partisan politics in Wayne county will not, in the immediate future, assume its pre-depression quietude.

Economic and political factors which were, in part, responsible for the sharp increases in the numbers of candidates between 1930 and 1934 have



undoubtedly contributed to the decreases evidenced in the last primary. With so many contributing factors, it is extremely difficult to evaluate the influences of any one; yet, in view of all the facts, the decreases which may be attributed to the fee system are probably fairly accurately reflected in the net change from 1932 to 1936—a decrease of 26.5 per cent. This conclusion is shared by election officials and seasoned political observers and finds some support in the reactions of the candidates. A poll

of approximately one-half of the candidates revealed that 53 per cent of those questioned believed that the fee tended to discourage self-seeking candidates, thus tending to decrease the total number; 40 per cent thought that it made little or no difference.

In addition to its influence in decreasing the number of candidates, two other features of the fee system are deserving of notice. As originally conceived, the signature petition was supposedly indicative of the candidate's popularity and his standing in the community. However, these commendable features were destroyed with the introduction of "petition pushing" tactics, and the filing of signatures became recognized as a matter of legal routine. In many cases, petitions were filed which all parties recognized to be of spurious character. In an attempt to stamp out these undesirable practices, signatures were limited in some jurisdictions, including the city of Detroit, to those of registered voters, and the petitions were checked against registration lists for the purpose of eliminating spurious signatures. This requirement placed a heavy financial burden upon the city and, in many cases, disqualified innocent candidates. The deposit requirement in these jurisdictions protects the candidate from disqualification because of the misdirected enthusiasm of his supporters and at the same time returns a neat saving to the city.

In the second place, prior to the introduction of the direct primary, the candidates or the parties were compelled to assume all expenses incidental to nominations; but, with the change in nominating methods, these costs were passed on to the public. Without reference to the merits of the proposal, it may be observed that the deposit system affords an opportunity to return this item, in part, to the candidates. In the municipal primary of 1935, considered together, these two factors, i.e., forfeited deposits and the elimination of signature petitions, returned to the city of Detroit a net saving of \$22,000.⁶ Since petitions filed for qualification in the general primaries were not required to be checked under the old law, the saving to the county in the recent primary was somewhat less; however, something over \$10,000 was realized from forfeited deposits.

Even though we may safely conclude that the present law was instrumental in decreasing the number of office-seekers and introduced some incidental reforms, the net result is nevertheless discouraging. The primary ballots carried the names of well over 300 candidates.⁷ "Everybody

⁶ Personal letter from Oakley E. Distin, chief supervisor, City Election Commission, Detroit.

⁷ The length of the ballots varied somewhat from district to district depending upon the numbers seeking nomination to Congress and the two houses of the state legislature. In a district picked at random in the city of Detroit, the ballots carried the names of 122 and 187 Republican and Democratic candidates, respectively. In addition to the list of county offices to which nominations are made regularly each two years, the 1936 ballots carried the names of 59 candidates—each party to

in Wayne county, including seasoned politicians and newspapermen, admit surprise and amazement at the large number of candidate names were filed July 28 last, the last filing day. The number of candidacies filed that day was almost beyond belief. We explain this by citing: (1) continuance of unemployment, with a natural desire on the part of various people to get on the public payroll; (2) the intense interest in all political subjects throughout our land, with a consequent interest in public offices; (3) partisan rivalries and controversies which have kindled intense bitterness of feeling among various factions, leading to promotion of impossible candidacies; (4) the fact that in many cases that the self-advertising, self-starting candidate who puts his name on the ballot would have his fee returned because of the lack of support from the voters which he foolishly anticipated."⁸

This accurate and impartial summary of the situation in Wayne county emphasizes two glaring weaknesses in the present law. In the first place, the operation of the law not only permits, but actually encourages late filing; and, in the second place, the act does not sufficiently impress upon the would-be candidate that he, in filing for office, assumes a responsibility and a financial obligation. Either of these deficiencies is fraught with possibilities for abuse, and to that extent brings the present filing system into disrepute and weakens the deterrent effect of the filing fee.

Office-seekers in almost all cases filed late for one of two reasons. Knowing that many candidates are induced to enter only after the last opportunity to judge the strength of the opposition and that many entries are mere "spite" candidacies, the office-seeker attempts to wait until the last moment, and thus outwit, all possible opponents. In other cases, the office-seeker had determined to be a candidate for public office, but delayed his decision as to the particular office, hoping to promote his candidacy through an opportune last minute choice. Late filing tends, undoubtedly, to produce confusion and inconvenience rather than positive results. The nuisance possibilities can be eliminated, without working injury to any candidate, by an amendment requiring that the lists shall be made public until the expiration of the filing date.

The second weakness is of far greater import and lends itself more readily to actual abuse. As stated above, the law does not in

nominate six—seeking nomination as circuit court commissioners. For details in total numbers, see footnote 5 and explanatory note following Table I.

The ballots in the November election carried, on an average, 235 names in vertical columns under the emblems of 12 different parties. Four parties qualified for a place on the ballot by filing vignettes with the state but for one reason or another did not certify a slate of candidates.

⁸ Personal letter from W. P. Lovett, executive secretary, Detroit League.

candidate with a sense of either public responsibility or financial obligation; and thus not only are the deterring possibilities minimized, but the act, as interpreted, encourages manipulation by the unscrupulous candidate. This weakness may be attributed to the fact that only a nominal fee is required for filing, and to the liberality of the refund provisions.

Two features of the refund provisions are open to criticism because they tend to destroy the deterrent effects of the act, and one, in addition, because it lends itself to positive abuses not generally practiced under the petition system. The law provides that any candidate who "shall have been nominated or shall have received 50 per cent of the total vote received by the winning candidate" shall have his deposit refunded. In many cases, this feature of the law encourages candidacies, especially if the lists are open to scrutiny. In case several candidates are entered, additional ones are encouraged to file, each believing that the split vote will entitle him to a refund. Figures from the recent primary substantiate this belief. This problem is more evident when several nominations are made on a general slate, as illustrated by the election of 17 members at large to the state legislature from the city of Detroit.⁹ The charter clause recognizes the problem of plural nominations and provides that any candidate who "shall have received a number of votes equal to not less than 50 per cent of the total vote cast for the *successful nominee receiving the lowest number of votes*" shall be entitled to a refund.¹⁰ The state law carries no such provision, but has been construed, in cases of plural nominations, to entitle any candidate to a refund who receives a total vote equal to 50 per cent of the vote cast for the last nominee. In view of this interpretation, the deterrent effects of the act are practically nullified.

This point may be substantiated by reference to the Democratic primary in the first legislative district. Seventy-seven candidates qualified for the primary, in which 17 nominations were to be made on a general slate. The vote in the district was so widely scattered that the first candidate to be nominated received a total of 45,845 votes, whereas a little less than 27,000 votes were sufficient to nominate the seventeenth candidate. The net result was that, of the 77 candidates who made deposits, 65 received refunds. Candidates for all offices deposited a total of \$29,050, of which only \$10,100 was forfeited.¹¹ This feature of the law, which permits liberal refunds, is criticized only in so far as it defeats the original

⁹ The Michigan constitution provides: "When any township or city shall contain a population which entitles it to more than one representative, then such township or city shall elect by general ticket the number of representatives to which it is entitled." Art. V, sec. 3.

¹⁰ *Charter of the City of Detroit*, Title II, Chap. 2, sec. 3 (as amended April 1, 1835). Italics in quotation are mine.

¹¹ Candidates for city office in the municipal primary of 1935 deposited a total of \$10,950, of which \$9,550 was returned by the city.

purpose of the act; but the second feature relating to refunds presents a more serious question in that it is actually conducive to positive abuses.

Under Michigan law, a candidate may, if he so desires, withdraw his candidacy and his name will not appear upon the primary ballot. For this purpose he is allowed a period of three days immediately following the last open date for filing. This provision remained unaffected by the act requiring the deposit for qualification, and thus the question as to whether or not a candidate was entitled, if he withdrew within the three-day period, to a refund was left unanswered. In the absence of statutory direction, the election commission ruled in favor of refunds and thereby cleared the way for two types of abuses.

The "shopping" candidate was permitted to file for two or more offices, study his possibilities for three days after all nominations were filed, and then save his deposits by withdrawing in those cases where competition appeared too formidable. One candidate, taking advantage of this feature of the law, filed for five offices and recovered his deposits in four cases.

The open lists, combined with the right to withdraw without penalty, encouraged the vicious practice of entering "dummy" candidates. The enterprising candidate would file in his own right and then induce a group of his followers to file for the same office, hoping thereby to eliminate any real opposition. With the expiration of the filing date, the "dummy" candidates were withdrawn and refunds assured. To what extent this ruse was actually practiced or the extent of its success cannot be ascertained. However, it is well known that one candidate filed for himself and, in addition, for two men with names politically popular in the Polish sections of his district, and entered, also, a candidate named "Murphy." This was a formidable combination; needless to say, no other candidates entered, the three "dummies" were withdrawn, and the original candidate was unopposed in the primary. All in all, the sum of \$4,800 was returned to candidates who withdrew after having qualified.

The obvious weaknesses in the present law demonstrate the necessity for amendment if the fee system is to merit continued respect. Few persons desire a return to the nominating petition with its recognized abuses. With few exceptions, the candidates favor retention of the deposit; likewise, the system has the support of almost all civic organizations and election officials.¹² With public opinion definitely aligned in its support, it is only reasonable to believe that the fee system will be retained and gradually strengthened, if not to increase its deterrent possibilities, at least to eliminate the present opportunities for abuse.¹³

¹² The Conference for the Protection of Civil Rights was outspoken in its opposition to the deposit requirement. However, its criticism was not relevant in that its objections centered around the right of the minor parties to a place upon the ballot and the Michigan law does not require such parties to hold primaries.

¹³ An election commission, created to study existing laws and report recom-

From his own observations and the responses of both candidates and officials, the writer believes that undue criticism would not be aroused if the amount of the fee were doubled and refunds made much more uncertain. However, it is generally acknowledged that the greatest defects in the law are to be found in its refund provisions, especially as interpreted in cases of withdrawals and plural nominations, and that these features should be remedied before any attempt is made to increase the deposit requirement. Whether or not primary ballots can be reduced to reasonable proportions through a proper application of the present principle is a debatable question. But this is certain, that a shorter primary ballot in our more populous areas can be had only through more stringent statutory control; and the results of the first tests of the fee system are such as to encourage further experimentation along these lines.

HAROLD M. DORR.

University of Michigan.

Sufficiency Certification of Initiative Signatures in Oklahoma. The establishment of equitable rules whereby the constitutional rights of affected interests may be protected against arbitrary invasion from laws adopted by the electorate under the reserved legislative powers of the initiative and referendum remains the most important procedural question in the whole field of direct legislation. In reserving the authority to initiate constitutional and statutory measures without the approval or consent of the popular assembly, and to enact such measures through the medium of a popular referendum, the popular sovereign has created a mechanic of legislation coordinate in authority with the legislature. But in erecting barriers against fraudulent and corrupt practices upon the part of those engaged in the initiation of proposed measures, the state constitutions and laws present the possibility of obstructionist tactics by opponents of the proposals and undue delay in the presentation of the measures to the electorates for decision.¹ The recent political imbroglio in Oklahoma over the adoption of an old-age-pensions amendment to the state constitution emphasizes the difficulties of reconciling these conflicting interests.

On August 13, 1935, Ira Finley, of the Veterans of Industry of America (known as the V. I. A.), and Tom Cheek, of the Farmers' Union, filed with the secretary of state over nine thousand pamphlets, alleging them to contain the valid signatures of 180,364 qualified voters of the state.²

mendations to the 1937 session of the legislature, passed over the act hurriedly and, to date, has formulated no recommendation concerning the filing fee.

¹ The same issue arises in the operation of the recall. See F. L. Bird and Frances Ryan, *The Recall of Public Officers* (1930), pp. 313-341.

² This number was practically double that necessary for fulfilling the requirements of the statutes.

The proposed measure provided for: (1) the payment of pensions to male and female citizens over 60 and 55 years of age, respectively, under certain qualifications relative to pecuniary income and length of residence in the state; (2) the creation of a "commission for old age pensions and security"; and (3) the laying of privilege taxes to provide the necessary revenue.³ Oklahoma uses the Oregon system of uniform lists or pamphlets upon each of which there are spaces for twenty signatures.⁴

On August 16, J. M. Ashton, researcher and statistician for the Oklahoma Chamber of Commerce, protested the sufficiency of the signatures on nineteen counts.⁵ At the same time, he loosed a blast of propaganda against the petition.⁶ The protestant moved into the secretary of state's office with a considerable corps of clerical workers and handwriting experts. The certifying official granted a general hearing, which took place on August 21 and 30. In these sessions, the agent of the Chamber of Commerce presented arguments in favor of a detailed hearing. The request was finally granted, and the detailed hearings were instituted on September 4.⁷

In the meantime, the secretary of state was holding hearings on two other initiated measures—a homestead exemption and a municipal utility bond petition. The latter would have permitted municipal officials, without popular approval, to issue bonds for the construction of electricity distribution systems. The private utility interests fought the certification of its signatures, but they worked under cover. Finally, W. C. Bryant, sponsor of the measure, petitioned the supreme court to issue a mandamus writ ordering the secretary of state to certify to the sufficiency of signa-

³ The complete text of the proposed measure is to be found in *Associated Industries of Oklahoma et al. v. Oklahoma Tax Commission*, 77 Okla. App. Ct. Rep. 383 (Feb. 21, 1936, No. 7); *Daily Oklahoman*, September 20, 1935, and February 19, 1936.

⁴ See J. D. Barnett, *The Operation of the Initiative, Referendum, and Recall in Oregon* (1915), pp. 227-240; A. H. Eaton, *The Oregon System* (1912), pp. 13-15; Charles A. Beard and Birl E. Shultz, *Documents on the State-Wide Initiative, Referendum, and Recall* (1912), pp. 79-94. The Oklahoma statutory provisions are found in *Oklahoma Statutes, 1931*, Vol. 1, ch. 30.

⁵ Among the irregularities charged in the protest were (a) fictitious names, (b) duplication of signatures, (c) existence of many pamphlets not bearing a true copy of original petition, (d) cases in which the circulators were also the notaries public who attested the legality of the signatures, (e) a large number of forgeries, and (f) omission of post-office addresses for many signatures. In all, Ashton charged that a sufficient number of the 180,000 signatures were spurious to fail to satisfy the requirements for 96,000 bona fide signatures.

⁶ His first professional observation was that the measure would necessitate annual revenue to the amount of \$36,000,000. This obviously erroneous figure was based upon the assumption that, in effect, one-half of the persons of the age categories in Oklahoma were without money income in any degree. A truly brilliant statistical conclusion, that, but it certainly was far from experimental accuracy.

⁷ *Daily Oklahoman*, September 5, 1935.

tures; but the court refused to grant the plea.⁸ The court had, in 1933, issued a like writ in the squabble over certification of a recall petition that sought the removal of four Oklahoma City councilmen.⁹ The same issue, obstruction, was involved in both cases. A reconciliation of the decisions would be a difficult task, though both apparently result from interpretations of "reasonableness."

One may rightly sympathize with the secretary of state, who sought to reach a fair decision on the matter. A special election had already been proclaimed for September 24.¹⁰ Considerable pressure was applied to this official to close the hearing and certify the petition, to the end that the old-age-pensions measure might be placed upon the ballot. The protestants were equally desirous of prolonging the hearings so as to prevent such a culmination. Long and tiresome arguments ensued; picayunish objections were made. The hearing practically bogged down before Carter, the certifying official, asked the attorney-general for an opinion as to the procedure that he might legally follow. The law officer's instructions were issued on September 9, just a fortnight before the impending election.¹¹

⁸ *State ex rel. Bryant v. Carter, Secretary of State*, 49 Pac. (2d), 217. In denying Bryant's plea, the court said: "It is the duty of the secretary of state to hear and determine said protest within a reasonable time and without unnecessary delay, having due regard for circumstances, and unless said official unreasonably, arbitrarily, and capriciously postpones said hearing and determination, this court will not issue a writ of mandamus to require a hearing and determination prior to date fixed by said official for such hearing."

⁹ *State ex rel. Bass v. Pulliam, City Clerk, et al.*, 25 Pac. (2d), 64. In holding the petitions sufficient after the expiration of the statutory period of ten days, the court said: "The initiative, referendum, and recall provisions of law are features of a progressive government. These features are intended to safeguard to the principal, the people, an effective check and control over office-holders, mere agents and representatives of the people. . . . To permit such delay as here involved, . . . would be to defeat the object and purpose of a recall provision of the basic law, which basic law all of the officials of the city are sworn to uphold and defend."

¹⁰ Five other measures—three initiative and two statutory—were already qualified for the referenda election.

¹¹ A digest of this detailed opinion appeared in the *Daily Oklahoman*, September 10. It was, as follows:

"*One.* Payment of a fee to circulators does not invalidate a petition or any part of it.

Two. Where the question is printed upon the petition, erroneous statements by the circulator do not invalidate a signature.

Three. Signers do not have to specify the county in which they live.

Four. Where a circulator fails to have his signature verified, all signatures upon the pamphlet are invalid.

Five. It is not necessary for the circulator to give his exact address.

Six. A signer may print his own name and it will constitute his signature.

Seven. Street addresses of signers are not necessary.

Eight. Name of town of signer must be given.

As the detailed hearing neared the election deadline, the political pressure for certification became stronger. Carter gave the impression that he was invalidating whole pamphlets upon the recommendation of the attorney-general. Being also an elected official, the latter did not care to assume such responsibility. Accordingly, he attended the hearings and informed Carter that the latter might use his discretion in invalidating whole pamphlets and that the instructions merely outlined the discretionary powers of the secretary of state. Being the central political figure, the governor felt that he might be blamed if the measure were not placed upon the ballot for the special election. From time to time, he publicly announced his willingness to place the measure before the voters. Finally, on September 17, he issued a proclamation placing the measure upon the ballot, despite the fact that the secretary had not certified to the sufficiency of the signatures. In commenting upon the proclamation, Governor Marland declared that the "protestants have unnecessarily and unlawfully, and contrary to the letter and spirit of the constitutional and statutory provisions guaranteeing the right of initiative and referendum, hindered and delayed the decision of the secretary of state on the sufficiency of said petition. . . ."¹²

Governor Marland had a partial precedent in the action of Governor Murray in placing an initiated measure upon the ballot in the "Firebells" campaign of 1931, despite the fact that an appeal from the secretary of state's sufficiency certification was then pending in the supreme court. The measure failed of adoption in the election, and the appeal was withdrawn.¹³

Nine. An illegible signature is not invalid.

Ten. A signature made by a mark is not valid unless properly witnessed.

Eleven. This section dealt with authority of the secretary to throw out entire pamphlets. In addition, it provided for names to be counted where it appeared the same person had signed more than one pamphlet or had signed the same pamphlet with the same name.

Twelve. The fact that the summary copy of the names was not readable did not effect legality of the signed names.

Thirteen. The presumption was that the signer was a qualified elector, and he does not have to be a registered voter to sign a petition."

¹² *Associated Industries of Oklahoma et al. v. Oklahoma Tax Commission*, 77 Okla. App. Ct. Rep. 383 (Feb. 21, 1936, No. 7). The governor even went so far as to question the appropriateness of the whole statutory procedure in regard to certification. "The opponents have hired high-priced lawyers and handwriting experts with a flock of microscopes to pass on the validity of signatures to invalidate the petition. It is humanly impossible to determine the validity of 100,000 signatures in that length of time. In my judgment, a sufficient number signed to warrant my putting the petition on the ballot." *Daily Oklahoman*, September 18, 1935.

¹³ See *Daily Oklahoman*, August 30, 1935; *Directory of the State of Oklahoma, 1935*, pp. 131, 132.

With but one week intervening between the proclamation and the election, there was little real campaigning.¹⁴ When the ballots were counted, they stood 204,522 for, and 78,783 against, the measure. Despite the plain mandate of the election, the secretary of state continued the detailed hearing until October 24, one month to a day after the election. Then he held the signatures sufficient. This phase of the issue was thereby terminated, but another interested party, the Associated Industries of Oklahoma, entered the scene with an application for an injunction to restrain the state tax commission from collecting the taxes levied by the amendment.

In general, the decision features four important rules relative to the procedural requirements for legal submission of initiated petitions.¹⁵ First, the court reiterated its contention that the initiative provisions of the state constitution are not self-executory.¹⁶ Though admitting the possibility of some delay if the legislative restrictions were followed, the court declared that "the purpose of the legislative provisions was to establish an orderly procedure for the exercise of the right of initiative and referendum by the people and to prevent fraud and corruption in the submission of such measures." There was also the danger of too hasty consideration of changes in the basic law, which the legislative provisions would serve to prevent. The right of protest, hearing, and appeal to the courts was, therefore, fundamental to the orderly operation of the initiative.

The second rule resulting from the decision was that an initiated measure cannot be submitted to the voters until the attorney-general has passed upon the ballot title. The title must, by law, reveal the vital provisions of the measure. The statutes provide for an appeal from the decision of the attorney-general to the supreme court. And although the court ruled that it did not have to determine this question in regard to the case at bar, it used considerable space in commenting upon it "for the purpose of pointing out the importance of a substantial compliance with the constitutional and statutory provisions . . ." None should be in doubt as to the plain meaning of this *dictum*.

Third, the court's decision left no doubt as to who should judge the

¹⁴ However, Finley stated that he sent 150,000 copies of *Labor's Voice*, the official V. I. A. publication, to the members of the organization, urging them to vote for the amendment. The governor also made one speech in favor of the measure. The opposition relied upon radio appeals.

¹⁵ Associated Industries of Oklahoma *et al.* v. Oklahoma Tax Commission, 77 Okla. App. Ct. Rep. 383 (Feb. 21, 1935. No. 7).

¹⁶ Atwater v. Hassett, 27 Okla. 292; *ex parte* Wagner, 21 Okla. 33; Norris v. Cross, 25 Okla. 287; Threadgill v. Cross, 26 Okla. 403; *in re* Initiative State Question No. 10, 26 Okla. 554; Oklahoma City v. Shields, 22 Okla. 265; *in re* Menefee, 22 Okla. 365; Rakowski v. Wagoner, 24 Okla. 282; State v. Brown, 24 Okla. 433.

validity of pre-election procedure. When Governor Marland issued his proclamation putting the measure upon the ballot, he usurped the judicial function. "To hold that the governor had such authority at that time," reads the opinion, "would effectually strike down and make meaningless and useless the procedural provisions. . . ." The governor's duties, therefore, were made contingent upon the prior decisions of the secretary of state, the attorney-general, and, in case of appeal, the supreme court. His discretion can be exercised only after preliminary decisions upon the part of these officers. The governor's proclamation was, therefore, wholly without legal force.

Finally, the court held that the result of an illegal election could not have the effect of establishing its legality. It was the expressed hope of the measure's supporters that a tremendous favorable majority might influence the court's decision. The governor was reported as remarking that "the way the people vote may have something to do with the supreme court."¹⁷ The respondents relied upon the established rule that irregularities in elections do not serve to defeat the popular will.¹⁸ The same rule obtains in some states in regard to an officer's answer to impeachment charges for acts committed prior to his last reelection to office.¹⁹ Popular favor serves, thereby, to purify and condone misfeasance and maladministration. However, in this case, the court drew the line between the elections that were properly called and those for which there was no legal basis. The decision reiterated the rule that the electorate can give neither approval nor disapproval to a measure that has not been legally submitted to it.²⁰

CORTEZ A. M. EWING.

University of Oklahoma.

¹⁷ *Daily Oklahoman*, September 18, 1935.

¹⁸ *Town of Grove v. Haskell*, 24 Okla. 707; *City of Ardmore v. State*, 24 Okla. 862; *Lamb v. Palmer*, 79 Okla. 68.

¹⁹ See my "The Impeachment of Col. W. H. McGaughey, 1893," *Southwestern Soc. Sci. Quar.*, Vol. 15, pp. 52-63 (June, 1934).

²⁰ The same question was involved in the adoption of an initiated measure to permit the state legislature to convene itself in special session without awaiting the official call of the governor. The amendment was held unconstitutional in *Simpson v. Hill*, 128 Okla. 90.

PUBLIC OPINION

Letters to the Editor as a Means of Measuring the Effectiveness of Propaganda.¹ In spite of the enormous literature on propaganda recently surveyed by a committee of the Social Science Research Council,² there has not as yet emerged a generally accepted definition of propaganda. Consequently, any discussion in this field requires at the outset some statement or general indication of what one is dealing with, in order to reduce misunderstanding. As political scientists, we are taking a strictly pragmatic view of propaganda, as completely removed as possible from the area of psychological controversies. We have, for the purposes of our studies, considered only such propaganda as is manifested in the organized activities involved in efforts to get people to take a particular step, such as to vote for Roosevelt, or to abstain from objecting to a particular step, such as the United States' entry into the World War.³ These efforts, when promotional, may be denominated "a propaganda campaign." Such a campaign proceeds by the organized dissemination of propaganda appeals. But these same appeals can, and do, operate without any organized promotion; and still they tend to influence those whom they reach.⁴ Many different kinds of individuals carry these appeals—teachers, writers, gossips, etc. From the viewpoint of propaganda analysis, they may be called "propagandizers." In the course of a typical campaign, there appear propagandizers who indulge in various activities which are significant in spite of their unorganized nature. Different is the propagandist who participates in a propaganda campaign.

It is little short of remarkable that with the enormous amount of this type of activity in our modern world, so few efforts should have been made to determine the extent to which these activities are successful.

¹ The following paper is a result of a larger project of research under a grant from the Committee on Research in the Social Sciences at Harvard University. This project is being carried on jointly and severally by Gordon W. Allport, H. Schuyler Foster, Jr., Carl J. Friedrich, E. Pendleton Herring, and R. L. Schanck. While we have profited from the discussions with our associates, responsibility for this paper is assumed exclusively by the authors.

² See Lasswell, Casey, and Smith, *Propaganda and Promotional Activities* (University of Minnesota Press, 1935).

³ The psychological problems of propaganda, such as the "manipulation of attitudes," are thus omitted. Likewise omitted are, of course, other types of organized activities which are involved in efforts to get people to take a particular step, without manifesting propaganda, such as corruption and physical coercion.

⁴ The distinction made by some writers between "intentional propaganda" and "unintentional propaganda" seems not to be helpful, for two reasons: (1) such a distinction suggests that either the stuff (appeals) of propaganda or the effect of propaganda is different, depending upon the presence or absence of intention; and (2) the practical difficulty of determining the presence or absence of intention in a specified case is well-nigh insuperable.

Propaganda shares this fate with its nearest kin: indirect-action advertising.⁵ Now indirect-action advertising is, speaking logically, a species of the genus propaganda, for it seeks to get people to buy something, rather than to vote for somebody, etc. In spite of the enormous sums expended in that type of advertising, for which the public utilities are typical, there is as yet rather little known about the effectiveness of such endeavors.⁶ Since the commercial interests paying for this advertising are very large, it stands to reason that the failure to ascertain the effectiveness of such advertising is at least in part due to the difficulties involved in measuring that effectiveness. Attempts have been made to cope with the advertising phase of this problem by setting up large-scale interview testing. It is doubtful whether similar methods would be as successful for testing propaganda. People appear to be much less ready to respond, or able to describe their own reactions correctly. Besides, the method is rather costly. What we really need is something on the order of a thermometer, which would more or less automatically register the looked-for change.

If a propaganda campaign is set on foot with a view to getting people to do something, the first thing which has to be accomplished is to get people to take notice. It is a matter of catching their attention, then of arousing their interest. The following study of "Letters to the Editor" seeks to show that the letters to the editor, when taken together, provide us with such a thermometer, indicating the amount of "heat" (to stay in our simile) which a certain issue is generating. A cross-section of a fair number of newspapers will, through their letters-to-the-editor columns, indicate the extent to which interest is being aroused. This may seem intrinsically probable; and so it is. But only by a careful analysis of material was this thesis finally worked out. The following is a selection of some of the more important data that we perused, and the conclusions that we drew from that perusal.

Three investigations afforded these data: comparison of published and unpublished letters to the editor of an important metropolitan daily, covering all issues treated during the period of examination; study of the letters on the Massachusetts Teachers' Oath Bill appearing in many papers; and analysis of the letters referring to the Child Labor Amendment in a single Boston newspaper.

⁵ Indirect-action advertising is based on general appeals as contrasted with direct-action advertising, where the reader or radio listener is asked to write to the advertiser for a sample and the like.

⁶ Very interesting along this line are the activities of Dr. Gallup, recently sprung into national fame through his cleverly devised American Institute of Public Opinion, the findings of which are published in many newspapers throughout the country.

It is well known that these letters to the editor are usually propagandist. The writer is so concerned about his subject that he tries to convince his fellow-citizens that his interpretation of the matter is correct. But if these letters have a thermometric value, we want to know whether the concern of the letter-writer reflects the concern of a significant portion of the community—that is, whether the appearance of the letters points to the existence of an effective propaganda.

One approach toward answering this question is to compare the letters published with those received by newspaper editors. This approach involved the coöperation of an editor, and several were asked⁷ as to their policies. As might be expected, all the editors who responded to inquiries indicated that there was no distortion by editorial bias in selecting letters for publication. One editor summed up a fairly general policy in these words: "We print less than half of the letters received. Publication generally depends on two things: first, what is said in the letter, and second, who signs it." The letters of his paper were examined, and 169 published and 169 unpublished letters were analyzed, covering the months of August, September, and October, 1935. The results are given in the following table.

TABLE I

<i>Contents of Letters</i>	<i>Published</i>	<i>Unpublished</i>
New Deal		
pro	7	4
con	49	38
non-committal	3	0
Governor James Curley		
pro	1	0
con	8	14
Italo-Ethiopian War	3	8
Utilities and Holding Companies	6	4
Other	92	101

This editor seems to have reduced the degree of popular emphasis upon the war in Africa, and to have spared the public the total number of attacks on Governor Curley, but we find no evidence of significant distortion in selection for publication. With respect to the New Deal, and even with respect to Governor Curley, the direction of opinion in the published and unpublished classes is substantially similar.

⁷ *Boston Globe*, *Boston Herald* (no answer), *Boston Post*, *Boston Transcript*, *Boston Traveler*, *Christian Science Monitor*, *New York American* (no answer), *New York Herald-Tribune* (no answer), *New York Sun*, *New York Times*, *New York World-Telegram*.

Only the four topics specified in the table stood out as the chief objects of public interest. Aside from half a dozen letters on the treatment of the Jews under the Nazi régime and four about Father Coughlin, there was no single "other" topic (despite the large total for that class) which was written about by more than two or three persons. Some of the miscellaneous letters were about Russia, Henry George, traffic conditions, and the Esplanade concerts. Some were illegible; others came from cranks on religion, genealogy, or gambling. The significant thing is that each of the four outstanding topics was the current subject of an active propaganda campaign.

So well known is the tendency of letters to the editor to be protests that in some newspapers the so-called "Vox Populi" column is known as the "Safety Valve." Our investigation shows that most letters are "agin" something or somebody, be it war, Curley, the New Deal, Father Coughlin, or gambling. Of course, there are replies to these protestors when certain issues are raised. In most cases investigated, the protests or objections are against some new law, such as the Holding Companies Act, or something not so old as to have become customary, such as the New Deal, Governor Curley, or a new gambling scheme.

It is also true that the selection policy of the editor seems to lean in favor of letters which discuss the problem under consideration in concrete terms. Letters suggesting "Let us do this or that" were classed as "activist," and those simply stating "I don't like this" were classed as "negativist." Of the unpublished letters, only 31 per cent were activist, while 53 per cent of the published letters belonged to this category.

The question is not, "Aren't these letter-writers cranks or constitutional objectors?" but, "Aren't the subjects which elicit the greater totals of letters precisely those which have been connected with a considerable volume of propaganda?" The answer seems to be, "Yes."

The further effort was made to determine, from evidences within the letters, the occasion which prompted the writer. About two-thirds of the letters mentioned the occasion, and the results are given in the table on the following page.

It is not surprising that the newspaper itself conveyed the most frequent stimulus to write to the editor. Practically half of the published letters referred to news items, other letters, or to editorials. Examination of the letters themselves indicates that, in fact, most specimens in the "none-mentioned" class were based upon news items, while a few might belong to the "general knowledge" class, indicating awareness of a definite occasion, such as "There is a Russian coal-boat unloading in the harbor." There seems to be a relative paucity of letters prompted by appeals disseminated through other publications and such media as public speech. But nowhere is there even a suspicion that the newspaper might

TABLE II

<i>Occasion for Writing</i>	<i>Published</i>	<i>Unpublished</i>
News items	43	49
Letters to the editor	20	13
Editorials	18	8
General knowledge	2	9
Personal experience	6	8
Common report	1	4
Public event	5	3
Speech or lecture	2	3
Magazine article	6	3
Radio	0	2
Private letters	2	2
Advertising	1	1
Books	7	1
Government reports	2	0
None mentioned	54	63

have been actuated by jealousy of a rival medium for the dissemination of fact or fancy.

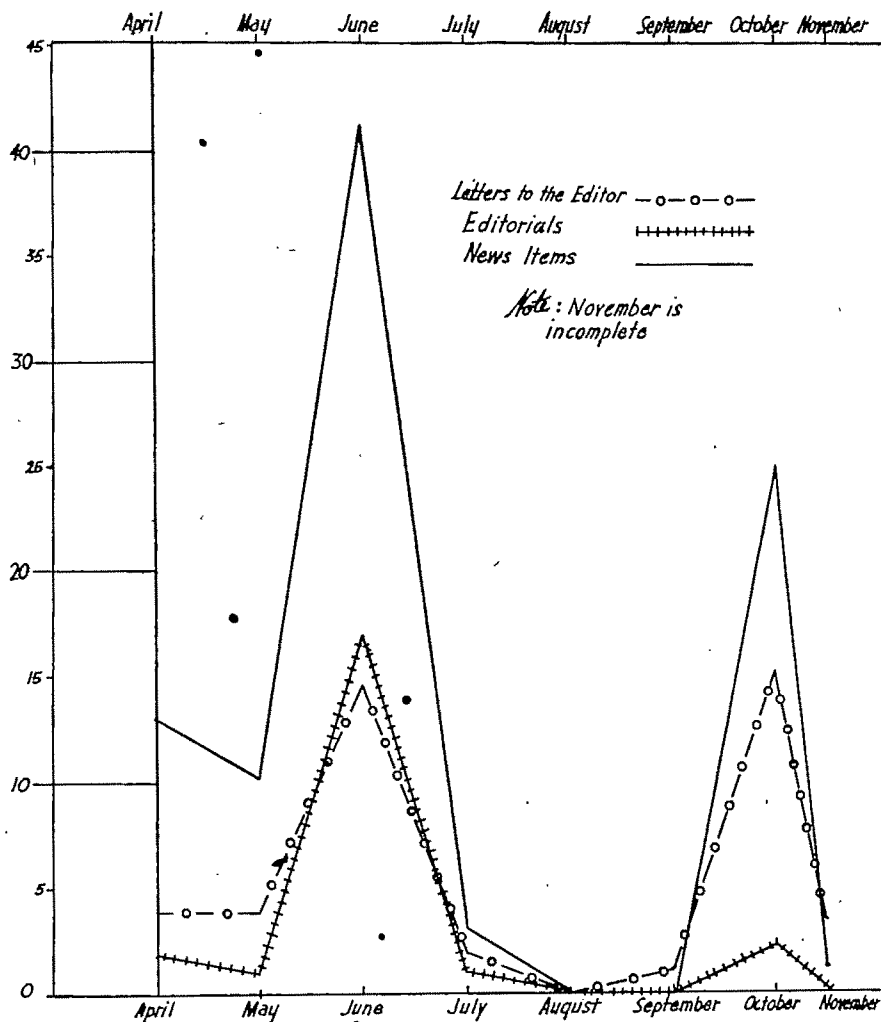
That the letters are especially responsive to representations appearing in the news columns was further revealed as an incidental result of a parallel investigation concerned with the appeals utilized in the propaganda raging about the Massachusetts Teachers' Oath Bill during the summer of 1935. A number of newspapers were involved in this investigation, and the results of this more extensive analysis point even more steadily to the conclusion suggested by the intensive study of the single metropolitan daily. All Boston newspapers were represented in the clipping collection of the realistic lobby organization which furnished these data.

During the summer, there were among the data 92 news items pertaining to the oath bill, 43 letters, and 22 editorials. The question was under consideration by legislative committees and in the two chambers of the General Court during April and May, and the final vote came in June. Expressions of public interest tapered off during the months of summer vacation, but reappeared when academic life was resumed and presented an occasion for the enforcement of the new law.

The accompanying graph shows the respective frequencies, by months, of these three types of newspaper feature. The graph demonstrates the sensitive fashion in which the number of letters to the editors of the various newspapers indicates the trend in the number of news items devoted to this subject. The letters proved a more faithful index than the editorials, especially with respect to the October increase.

Another investigation, this time of a single issue in a single paper, shows some interesting variations on the central theme. Massachusetts was

among the first states to consider the national Child Labor Amendment which was proposed to the states in June, 1924. At the regular election in November of that year, voters of the Commonwealth participated in a "public policy referendum," the results of which were followed by the General Court in rejecting the proposed amendment.



Starting with a vigorous epistle opposed to the amendment, a series of 25 letters extended from July through December. Their distribution is given by months in the following table, which shows how the letters appeared in a crescendo leading to the voting crisis, which was followed by a brief post-mortem.

TABLE III
CHILD LABOR AMENDMENT LETTERS

<i>Month</i>	<i>Total</i>	<i>For</i>	<i>Doubtful</i>	<i>Against</i>
July	2	1		1
August	3	2		1
September	7	4		3
October	7	3		4
November	2	2		0
December	4	0	2	2
Total	25	12	2	11

The alternation of a letter or two for, and then a letter or two against, the amendment was a feature of the publication policy with respect to these letters. It is common knowledge that editors follow this practice of encouraging debate within the column to maintain high reader interest in the paper. In this instance, about half of the letters were in response to other letters, while the normal stimulation from this source has been shown to be only about 12 per cent. The prompting of the 25 child labor letters is given in the following table:

TABLE IV
OCCASION FOR WRITING

Letters to the editor	13
Not given	5
Other (pamphlets, etc.)	4
Newspaper items	2
Editorials	1
Total	25

The explanation of the relatively large number of letters stimulated by other letters may lie in the fact that eight were signed by representatives or organizations which were lobbying for (7 letters) and against (1 letter) the amendment. In this case, the popular response seems less spontaneous than normal. It may be remembered that the occasion for the vote on child labor was somewhat less concrete than others. In our earlier cases, the New Deal was in actual operation, war was actually breaking out, Curley was doing fresh things from day to day. But the children were merely working as usual, even outside of Massachusetts, where the law was already more restrictive than the average. Political etiquette and political sense caution against replying in the letter column to every allegation brought against the governor or the New Deal. It is quite proper, however, for organizations to take a stand on a non-partisan principle and to wage war in its behalf.

The interesting sequel to this propaganda campaign, from our standpoint, is the size of the vote cast in the referenda held along with the presidential and gubernatorial elections. No letter referring to the other six referenda appeared in the columns of this paper. The total votes were: requirement of a bond for the handling of certain moneys, 622,329; correction of the constitution on woman suffrage, 703,418; on office-holding by women, 740,121; gasoline tax, 827,726; liquor law, 904,149; daylight saving, 924,485; and child labor amendment, 943,340. And the child labor vote was not a close one. The amendment was defeated nearly three to one, a far wider margin than in any of the other six instances. Normally, the closer the election, the higher the vote. It seems that this issue had attracted a considerable measure of public attention and concern.⁸

If it be thought that this instrument measures situations which provoke propaganda, rather than the effectiveness of the propaganda itself, two observations may be apposite. What is regarded as a "situation" is frequently the result of a propaganda campaign. Also, many "situations" arise, such as the voting crisis with respect to the bond requirement, or a compulsory referendum on the calling of a constitutional convention every twenty years, which are not the signal for the release of propaganda, or which do not evoke propaganda effective in stirring the interest of the public.

It is possible that the editor may refuse to publish letters on a particular issue, and sometimes he does so.⁹ It is possible that he may write or inspire letters to himself, and sometimes he does this. In the latter case, it is the editor himself who becomes an important propagandist; but still the column will tend to indicate popular interest. Zero in the letter column may not reveal the fact that certain propagandas are nevertheless operating effectively, for this is only a positive indicator; but if some higher figure is registered, we can be rather sure that propaganda is catching public attention. Our assurance increases as we enlarge the number of newspapers upon which a reading of the instrument is based.

No pretension is made that the letters constitute a well-calibrated instrument for the exact measurement of the effectiveness of propaganda. Moreover, other factors than an actual propaganda campaign may enter into the situation. What is more, several different agencies may contribute to a propaganda effect. Thus, in the child labor campaign the force which by general consent was the most potent was the Roman Catholic Church. To what extent propaganda issuing from such a source would be indicated

⁸ See W. A. Robinson, "Child Labor Amendment in Massachusetts," in this Review, Vol. 19, pp. 69-73 (Feb., 1925).

⁹ One editor said that he avoided issues likely to stir up race hatred, such as the Scottsboro case.

by the proposed instrument is uncertain. The instrument is particularly sensitive to propaganda among the general public by means of the printed word, rather than by the cinema or the radio. The stimuli for letters came especially from news items, editorials, other letters, and to some extent from books, periodicals, and public addresses. Yet many radio addresses are published, sometimes verbatim, in the newspaper, and to a considerable extent the press carries reports of propagandist motion pictures. The press is sometimes less dramatic than radio and film, but it is always more permanent.

Our search for "thermometric" material has resulted in the investigation of letters to the editor, and we suggest instead of a column of mercury, a column of letters. A score of newspapers could be taken to provide the basis for measurements. Each paper now devotes a particular space to its letters, and they appear in numbers which are fairly constant from day to day and from week to week. The total number of letters appearing in all of the papers represents the practical maximum for letters which could be devoted to a specific topic. This mark at the top of the scale may sometimes be exceeded, as in a war crisis, when the pressure of propaganda, like an expanding column of mercury, shatters the normal restraints and the letters overflow into other pages of the newspaper. At the lower end of the scale, the absence of letters on a certain topic could represent absolute zero; but for the purpose of indicating the emergence of an effective propaganda, points could be empirically established to exclude from the range of active measurement the normal quota of random letters on such topics as religion, first robins in spring, and gambling.

Once these working limits were established for a particular group of newspapers, there would remain only the problem of marking as many degrees of propaganda effectiveness upon the scale as the observer might desire. The instrument offers utility for measurement in both absolute and comparative terms. Ultimately, however, in order to measure the full effectiveness of propaganda, we shall need not only a "thermometer," but a whole panel of instruments.

H. SCHUYLER FOSTER, JR., AND CARL J. FRIEDRICH.

Harvard University.

British Influence on the American Press, 1914-17. The primary objective of a political propaganda campaign is to establish an attitude of mind, a climate of opinion. When such a campaign is successful, the point of view which it has created acts as a censor or interpreter of news. The anti-German attitude displayed by the American press between 1914 and 1917 was the result of such a campaign. It was not accidental, and it was not the result of guilt resting exclusively upon Germany.

On August 5, 1914, the British cut the cables between Germany and the

United States.¹ No other means of rapid communication existed between these two nations and, as a result, the most effective instrument of propaganda, the news, was suppressed at the most crucial time in the history of the war—the time when first impressions were being made, when a new climate of opinion was being established. In November, 1917, an official of the State Department wrote to President Wilson advocating a censorship of the press. His principal argument was that “the *first publication* is that which is *formative of public opinion* and which affects the public emotion.”² With first impressions controlled elsewhere, all the opponents could do was to “retrieve part of the unfortunate effect” created by the original publication. This retrieving was what British censorship forced the Germans to do. Even after the inauguration of trans-Atlantic wireless, late in 1914, with its limited facilities for the transmission of news, German dispatches were slower than the British, so that even the later, less important, British interpretations of events became the accepted versions in America.

The cutting of the cables between the United States and Germany was the first act of censorship and the first act of propaganda. These Siamese twins of public opinion were from then on to dictate to the American people what they were to think. The second move in the same endeavor was the censorship of the press in England. This was achieved under the Defense of the Realm Act, the famous DORA, which gave control over “all statements intended or likely to prejudice His Majesty’s relations with foreign powers.” The year before the war, there had been formed a Joint Consultative Committee of Admiralty, War Office, and Press for the purpose of planning censorship. This so-called Press Censorship Committee was replaced in August, 1914, by the Press Bureau, with its duty to “supervise, largely on a voluntary basis, issue of news to and by the press.”³ In the cabinet, the Home Secretary, Sir John Simon, was responsible; while in direct charge was F. E. Smith, the later Lord Birkenhead, who was replaced on September 3, 1914, by Stanley Buckmaster.⁴

As a matter of fact, this Press Bureau “was only a shield and recording angel for the naval and military censors who acted under direct instructions from the Admiralty and War Office.”⁵ As one Englishman referred to it, it was “the imaginative department, the body which dresses up the

¹ Wireless censorship went into effect on August 1, 1914. Sir Douglas Brownrigg, *Indiscretions of the Naval Censor* (London, 1920). There are reasons for believing that cable messages were censored on August 1.

² *Breckinridge Long Papers*, Library of Congress.

³ N. B. Dearle, *Dictionary of Official War-Time Organizations* (London, 1928), p. 310.

⁴ He was replaced by Sir Frank Swettenham, and the latter, in turn, by Sir Edward Cook.

⁵ *Lord Riddell’s War Diary, 1914–1918* (London, 1933), p. 116.

facts for presentment to the public, a most important function and one leaving scope for individual imagination." This national censorship of the British was important to the United States because the news passed by this censorship was the version of the news which American newspapers printed. With the cables to Germany cut, American newspapers had to secure their war news where it was available—and that was in England. The only way in which they could get complete and dependable (?) news was to buy the advance sheets of London newspapers. Otherwise they were limited to official communiqués from the British or French governments. News obtained from other European countries had to be filtered by the British censor also. Hence it can be seen that it was truly the British news that became the American news.⁶

In order to make the stifling of news more acceptable to the dissatisfied correspondents, an "official eye-witness" was appointed by the British.⁷ His efforts pleased no one; so in March and April, 1915, a step forward was taken when parties of British correspondents were taken on a tour of the front. In doing this, it was discovered that the news writers could be pacified and at the same time made to serve as propagandists. By stationing the reporters at the various army headquarters, and by the simple device of making them personal friends, they became apologists for the British cause. In June, 1915, when the British G.H.Q. received one American (Frederick Palmer) and six British correspondents, this system of propaganda was formally started.⁸

The British propagandists constantly had the American newspaper men in mind, and, somewhat later, we find them endorsing the recommendations of one of their American agents that "special correspondents from this country [the United States] . . . should be sent to the front and be allowed to see actual fighting." "The French have, on the surface, done no propaganda work of any kind," but have been very cordial to American correspondents in France, "and these correspondents have come back here and written the most enthusiastic articles for France. The last and most convincing . . . is to be found in the visit of Frank Simonds."⁹ The

⁶ "From September, the New York *Times*, *Tribune*, and *World* (and other papers) regularly bought the advance proofs of the London *Chronicle*, *Morning Post*, and *Daily Telegraph*, using the material in their own news columns and syndicating it throughout the United States." Walter Millis, *The Road to War; America, 1914-1917* (Boston, 1935).

⁷ This was Major E. D. Swinton. He did his work from September 14, 1914, to July 15, 1915. Riddell, *op. cit.*, p. 17.

⁸ Neville Lytton had general charge of them on the British front.

⁹ Report of the propaganda ministry for the use of the British cabinet (May 25, 1916). This propaganda ministry is better known as Wellington House. The reports usually were two or three weeks later than the dates of letters or of the newspapers which were included in the reports. They bore the partially correct title of *The American Press Résumé*.

British then went even further; they entertained all people of importance. "Editors, novelists, political experts, essayists, statesmen, university presidents, and men of importance in all walks of life, especially Americans, were given tours of the front. A visitors' chateau was provided for them, and there the cuisine was excellent, while food rationing in England tightened under the growing submarine menace. They were chaperoned by most attentive and diplomatic reserve officers who had notes in hand from the Foreign Office about the standing and character of each visitor, which made ingratiating hospitality the easier on the part of the hosts. The guests were shown what was good for them to see."¹⁰

In these efforts can be observed one of the distinguishing characteristics of British propaganda—its sentimental or personal basis. The practice of exploiting personal contacts is customary with salesmen and was very intelligently used by the British in their handling of propaganda.¹¹ The above account illustrates how the correspondents at the front were cared for, and the same thing was done at the British capital. John St. Loe Strachey had a meeting of American correspondents each week at his home in London. There the reporters were given an opportunity to meet some important personage, such as a cabinet member or a military leader.¹² The personal contacts established made the censorship less distasteful to the correspondents, and also made it more difficult for those attending to give any but a British interpretation of events—even if it had been possible to get such a version through the censor. The same type of meeting was held by the foreign editor of the *London Times*.¹³ These social efforts at home and at the front made friends of the correspondents and enlisted them as propagandists for the Allies. Also a special effort was made to enlist the sympathies of the press associations. The British naval censor writes: "With the heads of the Associated Press (Mr. Collins) and the United Press (Mr. Keen) I was constantly in closest touch."¹⁴

¹⁰ Frederick Palmer, *With My Own Eyes* (New York, 1934), p. 332.

¹¹ One of their organizations obtained the names of the friends of important people and then mailed to these friends propaganda as though it were from the individual Englishmen. "By this means very many important communities—philosophical, educational, religious, scientific, philanthropic, artistic, legal, medical, commercial, industrial, agricultural, engineering, mining, banking, athletic, etc. . . . have been reached." *Report of the Central Committee for National Patriotic Organizations*, p. 18.

¹² The official news department of the Foreign Office "placed itself at the disposal of the American press representatives . . . , studied their needs, endeavored to procure . . . their satisfaction." *The Times History of the War* (London, 1920), Vol. 21, p. 101.

¹³ "There were Saturdays at Wickham-Steed's where newspaper men, officers, and diplomats . . . used to meet." *President Masaryk Tells His Story* (London, 1935), p. 251f.

¹⁴ Brownrigg, *op. cit.*, p. 125.

Through these men, their superiors across the Atlantic were influenced. One distinguished English expert on this field writes: "Better than any pumped-in propaganda abroad was [the] . . . method of making the leaders of the Imperial, neutral, or Allied press themselves the propagandists when they returned home."¹⁵

Conducting such a propaganda system, it was necessary to go beyond those individuals who might happen to visit Europe. In order to reach those small papers in the United States which had no press service and no correspondents abroad, Sir Gilbert Parker's American "Ministry of Information"—a branch of Wellington House—"supplied three hundred and sixty newspapers in the smaller cities of the United States with an English newspaper which [gave] a weekly review and comment on the affairs of the war."¹⁶

Few opportunities to influence writers were left unexploited, and although newspaper people objected strongly to the control which was placed upon them, their resistance was unavailing. News was essential to the success of their papers, and in order to secure news they had to conform—which they did. The almost complete capture of American news-writers resulted in a press consistently friendly to the Allies. The American division of the British propaganda ministry made a weekly report of this success for the information of the cabinet. A terse statement such as "The week supplies satisfactory evidence of the permeation of the American press by British influence"¹⁷ means a great deal more in this connection than would appear at first glance. It means that even British propagandists were satisfied with their control.¹⁸ The foregoing explains in part how this was done, but, of course, it must not be considered to be the whole story. The community of language, the pre-war use of London as a source of European news, the British naval policy which eventually made the success of the Allies an economic necessity to American industry and finance, and the flood of British propaganda, all played their parts. But it was the careful handling of the basic instrument of public opinion—the news—that made the other efforts successful.¹⁹

¹⁵ Lord Beaverbrook, *Politicians and the Press* (London, 1927), p. 12.

¹⁶ Sir Gilbert Parker, "The United States and the War," *Harper's Monthly Magazine* (March, 1918), p. 522.

¹⁷ Report of October 11, 1916.

¹⁸ The "corpse factory" story man wrote: "It does not much matter what happens in neutral countries, except America, and there we are already served by the correspondents here and by our American visitors." John Charteris, *At G. H. Q.* (London, 1931), p. 167.

¹⁹ The British propagandists noted the pull of economics in their report of January 7, 1916. "From the beginning of the present war, prices in Wall Street have risen regularly in response to any military successes of the Allies and fallen with equal regularity when the Central Powers achieved successes."

The control of correspondents in Europe would never have resulted in such unanimous support had not the British used great discretion in giving these newspaper people propaganda of sufficient probability to make it intellectually acceptable, and had they not varied their propaganda to fit the prejudices and hopes of the readers served by these correspondents. Both newspaper people and newspaper readers had to be catered to. This was done by keeping a very careful watch on shifting currents of American opinion. To illustrate how this intelligence service assisted in controlling the policies of the British so that they could keep the newspaper people in a friendly mood, a few examples of the reports of individuals are worth mentioning. One writer, in 1916, warned of the fallen prestige of Great Britain in the United States and remarked that the American people intended to support the Administration "in whatever it decides to be necessary. *In consequence, our main point of action must be at Washington.*"²⁰ Another time, the propaganda ministry informed the cabinet, concerning an article in the *New York World*, that "Sir Gilbert Parker has received a cable . . . informing him that this dispatch is officially inspired."²¹ It is obvious how such information could be useful.

Another more important time when advice from propaganda agents undoubtedly assisted the British was brought to view in a letter dealing with the election of 1916. Here the agent tells the propaganda ministry and, through the report of this ministry, the cabinet, that Hughes would probably take neutrality seriously instead of acting like Wilson, who was strongly "pro-Ally." This agent remarked: "Hughes has said, 'We propose that we shall protect and enforce American rights on land and sea without fear and unflinchingly with respect to American lives, American property, and American commerce.' These words in the mouth of Mr. Wilson would not mean very much, but in the mouth of Mr. Hughes they mean a good deal." The "Foreign Office ought to be thoroughly informed as to the change that is likely to take place in the attitude of Washington if Mr. Hughes is elected." "Mr. Roosevelt is for Hughes simply because he wants to beat Wilson. . . . It is extremely unlikely that Mr. Roosevelt will have any influence on the conduct of affairs at Washington if Mr. Hughes is elected." "The situation is more fraught with danger now than it has ever been before."²²

Another report discussing the election said: "It is difficult to see what

²⁰ Report of May 31, 1916. Italics mine. Less than a year before this, Lansing remarked: "You can have no idea of the pressure which is being brought to bear on this government from various elements in this country in regard to our foreign relations." August 17, 1915, *Lansing Papers*, Library of Congress. The policy advocated in the British report may have had something to do with the reaction of the Secretary of State.

²¹ Report of January 3, 1917.

²² Report of October 18, 1916.

form a new policy could take, unless it should be a less friendly attitude to Great Britain."²³ It should be remembered that this is a statement of the British department of propaganda—and not of any German propagandist. Of course, we have abundant evidence that the Germans held the same point of view.

The propaganda ministry's weekly analyses of American newspapers gave the same kind of advice as the individual reports, and likewise were very revealing. These analyses showed what propaganda was succeeding and what was failing; they also showed the range and influence of the propaganda. One division of this report was headed, "Influencing the American Press." It varied from week to week, but the following excerpts are typical: "Amongst the thoroughly satisfactory articles upon the British offensive may be mentioned Mr. Frederick Palmer's article in *Collier's Weekly*." "The *Literary Digest* publishes long extracts from Dr. Taylor's report on the Wittenberg Camp." Articles by the following writers have appeared: "Mr. Archibald Hurd, Alfred Noyes, Gilbert Murray, and James M. Beck."²⁴ A little later, the cabinet is informed that the "pro-Ally Philadelphia *Public Ledger* writes an editorial upon the pamphlet 'Treasury Romances' prepared by Wellington House."²⁵

From time to time, comments were made upon the success of various types of propaganda. For instance, the report of October 18, 1916, records that Gertrude Atherton was spreading the story of Germans inoculating exchange prisoners with tuberculosis. Reports of a particular group of atrocities having been received with interest, the reports of a few weeks later show that efforts were extended to develop this attack and the newspapermen given more material on that particular subject. When a report such as "the American mind shows signs of being almost surfeited with atrocities" was received, the ensuing reports show a change of emphasis to the evil war aims of the Germans or to the illegality and brutality of German naval policy. All in all, this careful watch of the results of propaganda efforts was indispensable in maintaining and strengthening British control of American opinion.

The other way in which these reports served to assist in channeling the attitudes of American newspapers was by showing which papers to favor and which papers to fight. The British propaganda ministry's classification of American papers is most interesting from this point of view. The New York *Times* and *Tribune* were spoken of as "pro-Ally." One propagandist emphasized this by demonstrating the naiveté of considering these two papers representative of American opinion, and warned that the pro-Ally bias should never be ignored—at least by British

²³ Report of November 1, 1916.

²⁴ Report of September 13, 1916.

²⁵ Report of November 8, 1916.

propagandists, The New York *Sun* and *World* were classified as "friendly." The Philadelphia *Public Ledger* and the Boston *Globe* were "pro-Ally." The New York *Herald* and the Providence *Journal* were "ardently pro-Ally," which was a charming bit of understatement. The paper which was followed most closely by President Wilson merited the comment, "even a paper so friendly as the Springfield *Republican*. . . ." Many other papers through the country were mentioned under these headings, but the foregoing are sufficiently representative of the powerful papers to demonstrate the success of the British efforts. Among the pro-British papers was one in the Middle West, which, for some inexplicable reason, seems to have been especially important to the British propagandists. It was the Minneapolis *Bellman*, which, in their words, was "perhaps the most important newspaper in the Middle West."²⁶

It must be remembered that when a newspaper was satisfactory to the propagandists it had to be far from neutral, and that when the British propagandists classified a paper as "unfriendly" it is very likely that²⁷ that paper had merely failed to propagate blindly the British ideas about the war. The following papers, which were listed as "unfriendly" to the Allies, were, on the whole, fair to them—they merely disagreed with Great Britain and France as to the type of neutrality that the United States should practice: the Chicago *Tribune*, the Sacramento *Bee*, the Los Angeles *Times*, the St. Louis *Globe Democrat*, and the Cleveland *Plain Dealer*. Much of their news was British propaganda, but there was a limit to their gullibility.

One group of papers which was a great worry to the British was the chain controlled by Hearst. This was the one powerful American newspaper interest that was not under the sway of the British. Hearst, to their extreme anguish, did not leave undisputed the war-guilt propaganda, the atrocity propaganda, or the war-aims propaganda. The self-righteous tone assumed by the Allies did not impress him. His papers gave the British version, but also intimated that this version contained only part of the truth. Such tolerance represented so great a menace to the British campaign in the United States that either immediate suppression or conciliation was necessary, not only with Hearst but with those few other newspapers which did not propagate the British view.

The British propagandists privately admitted that Hearst was not pro-German, that he gave many sides of the various questions concerning the war; it was precisely this that endangered the British propaganda arguments. To use their words: "It is not fair to charge Hearst with pro-Germanism, without recognizing the conspicuous fact that he is ever ready to receive into his papers and to give prominent display to special

²⁶ Report of June 27, 1917. Similar comments appeared at earlier dates.

²⁷ Special supplement to the report of January 28, 1916.

articles of any and all partisanship whenever the interest of the subject, or the repute of the author, make a fair claim upon him." "To say that he [Hearst] is pro-German is at once to over-credit his integrity and to undervalue his importance. He is not pro-anything except Hearst. . . . He would just as easily be pro-Hottentot if that paid better." "No more do I believe . . . that Hearst has been 'bought' by the Germans. I do not believe that Hearst can be bought in that sense; certainly I am sure that he would not be a safe or dependable bargain for any purchaser."

As time passed and it became more and more necessary to capture or destroy the Hearst influence if the American type of neutrality was to be continued, or if the United States was to be brought into the war, more thought was given to the Hearst problem. It is possible that the election of 1916 hastened a reckoning. At any rate, in March, 1916, one British propagandist refused to write anything more for the Hearst papers and, in doing so, apparently dropped a hint that Hearst would better change his ways if trouble were to be avoided. This called forth a remarkable letter from Hearst in which he gave a frank statement of his policy with regard to war news. The letter, addressed to Hearst's London agent, was referred to the propaganda ministry and, by them, to the British cabinet. The propaganda ministry was in favor of continuing the use of Hearst whenever possible; for they wrote: "We believe this is a fair statement [referring to Hearst's letter], and that only a good end is served by using the Hearst papers for articles and interviews for the pro-Ally cause. If we could have an article or an interview in the most pronounced paper in the Central Empires, we should not hesitate to use the opportunity."²⁸

The somewhat amazing letter of Mr. Hearst apparently did not satisfy British officialdom. They had to have the complete partiality which they had obtained in other American newspapers, and in order more nearly to obtain this end, Hearst was "prohibited the usual facilities of the British Press Bureau and denied the cable service by the British government." In addition, the Hearst papers were barred from Great Britain and its possessions. This was a severe blow to Hearst,²⁹ and notice was thus served upon other intransigent newspaper people to conform. Although this action served to make Hearst less friendly to Great Britain, it was undoubtedly a wise move on her part. It had become the height of fashion to be pro-Ally, and this public branding of Hearst as pro-German lessened his influence.

The capture of the American press by the British propaganda service was definitely not the only factor which formed the opinions of the Ameri-

²⁸ Report of May 25, 1916.

²⁹ Some Hearst papers continued to obtain news as a result of their A.P. franchises. For the methods of obtaining news by the others, see *International News Service v. Associated Press*, 245 Fed. 244.

can people with regard to the war, but it certainly assisted in making sympathy for the Allies nation-wide. It is true that there was a contrast between opinion in the East and that in the West, but the contrast was one of degree and not of issue.³⁰ It was not so much between pro-Ally and pro-German as it was between belligerent and pacifist, and "it is inaccurate to identify pacifism and pro-Germanism"³¹ as one and the same thing. The pacifist sentiment was "a genuine American article,"³² and in large part the sympathy of the pacifists was with the Allies. "There is evidence that in many localities the people . . . entered the war with reluctance";³³ but that reluctance was not due to any widespread sympathy for Germany. After two and a half years of British influence on the American press, the people of the United States were so imbued with Entente ideology that objections to entering the war on the side of the Allies were unavailing.

H. C. PETERSON.

University of Oklahoma.

³⁰ The report of January 28, 1916, states: "I find it [the Middle West] just a little more neutral than . . . the East." As to the Far West, it states: "California is much the same as the rest of the United States. This California sentiment is an asset of considerable value to the cause which has so overwhelmingly and conclusively won it." "I should deplore any external attempts to make it more pro-Ally than it is." This last statement is from the supplement of January 28, 1916.

³¹ Report of March 7, 1917.

³² Report of March 10, 1916.

³³ Report of May 23, 1917. The report of April 18, 1917, states: There is "no enthusiasm except in a few Eastern papers." See also the report of May 2, 1917. On April 25, it is remarked: "The entry of the United States into the war would seem, to judge from the press, to have been nowhere more welcome than in the financial districts of New York, Chicago, Boston, and Philadelphia. In London, British bankers received from their American friends and correspondents numerous cables expressing satisfaction at the new situation. These cables were all of the same nature, full of relief as well as satisfaction that the United States found themselves about to fight side by side with the nations with whom their financial relations were already so intimate."

FOREIGN GOVERNMENTS AND POLITICS

Church and State in England. In that revolutionary movement by which slowly and unobtrusively the government of England has been made over in the last twenty years, no institution has changed more perceptibly than the Church of England. *Church and State: The Report of the Archbishops' Commission on the Relations between Church and State*,¹ dated 1935 but withheld from the public by the Commission until after the general election of that year, sets forth the latest stage in a notable constitutional development.

The Reformation set up in England a national church severed from Rome, under the jurisdiction of the king as "supreme governor," and under how much legislative control by Parliament is still a matter on which historians love to dispute.² Sufficiently loyal both to its head and its governor to obtain such advantages as accrue to those who serve both God and Caesar, the Church of England followed a successful *via media* for many generations, until the Glorious Revolution of 1688 sent its single-minded bishops and clergy into exile. Since Jacobite days, too good a churchman has been suspect. No risks were run in the eighteenth century; the royal arms hung over the chancel arch in each parish church, although the cross might be absent from its altar.

All this began to change with the Oxford movement, whose centenary was celebrated three years ago. At first disapproved by authority as well ecclesiastical as secular, that movement gradually conquered the majority of the more devoted clergy and laity, and the Church regained the consciousness that it was the organized body of believers in Christ and not merely an adjunct to the civil government of the realm. But at the same time that the Church was strengthening its sense of religious self-consciousness and of its differentiation from the world, the state was becoming more and more secular, and Parliament found itself far too busy to legislate for the Church.

The only way out of the difficulty seemed to leaders in the Church to be the establishment of a subordinate legislature through which the Church could govern itself. In 1919, before the fading of that false dawn of a world in which all was to be made new, such a legislature was set up. Parliament passed the Enabling Act which gave its approval to the establishment by the Church of England of its own legislature, the Church Assembly, reserving, however, a final veto by the provision that Parliament might disallow a "measure," i.e., a legislative act, of the Church

¹ Vol. I, *Report and Appendices*. Vol. II, *Evidence of Witnesses, etc. Issued for the Commission by the Press and Publications Board of the Church Assembly* (Church House, Dean's Yard, Westminster, S.W. 1).

² The Commission wrote its own interpretation in an "Historical Introduction," *Report*, Vol. I, pp. 9-40.

Assembly. Under the Enabling Act, a series of measures were passed, organizing the administration of the Church and modernizing its finances. With one unimportant exception, these measures were approved by Parliament. But when, in 1927, the Church Assembly submitted to Parliament a measure to authorize a revised prayer book, the House of Commons, which had allowed the Church to reorganize its administration to suit itself, refused to allow it a similar control over its spiritual life, and rejected the measure—not only in 1927 but when resubmitted in 1928.

The immediate result was to stimulate within the Church the movement for disestablishment, as being the only means of securing spiritual autonomy, even though the politically inevitable accompaniment of disendowment would handicap the Church's work. The majority of the clergy and laity, however, preferred some middle ground between disestablishment and the existing legal situation; they wanted spiritual autonomy for the Church without a complete severance between church and state. On July 2, 1928, Randall Davidson, archbishop of Canterbury, stated with the concurrence of the other bishops that "it is a fundamental principle that the Church, that is, the Bishops, together with the Clergy and Laity, must in the last resort, when its mind has been fully ascertained, retain its inalienable right, in loyalty to our Lord and Saviour Jesus Christ, to formulate its faith in Him and to arrange the expression of that Holy Faith in its form of worship." On February 5, 1930, the Church Assembly passed a resolution that in view of the Archbishop's statement "it is desirable that a Commission should be appointed to enquire into the present relations of Church and State, and particularly how far the principle, stated above, is able to receive effective application in present circumstances in the Church of England, and what legal and constitutional changes, if any, are needed in order to maintain or to secure its effective application; and that the Archbishops be requested to appoint a Commission for this purpose."²

The membership of the Commission was fairly representative of the Church, and it heard a great variety of witnesses. After deliberations extending over five years, it issued a unanimous report. It is notable first that the Commission entirely rejected disestablishment. Having done that, they had to try to satisfy both sides to the perpetual controversy—those who wanted freedom and those who wanted the maintenance of discipline within a visibly united Church.

On the legislative side, the Commission was satisfied with the working of the Enabling Act as it affected measures of the Church Assembly concerned with matters of administration. But as to spiritual measures, those "touching doctrinal formulæ . . . services . . . Ceremonies . . . or the administration of the Sacraments," they found that a greater freedom

² *Report*, Vol. I, p. 1.

from parliamentary control was necessary, and proposed a draft bill for parliamentary approval to grant the Church this freedom.⁴ This draft bill provides a new procedure for measures relating to the "spiritual concerns" of the Church of England. When a measure has been certified by the archbishops of Canterbury and York and the speaker of the House of Commons to relate substantially to such concerns, and when the two archbishops have certified that it has been approved (by an elaborate method prescribed) by the Church, and that it is not a departure from the fundamental doctrines of the Church as set forth in the Prayer Book and the Thirty-Nine Articles, then such a measure will have the force of an act of Parliament on receiving the royal assent. Neither house of Parliament need even be consulted.

On the judicial side, the Commission made careful reconsideration of the problem of ecclesiastical courts⁵ and proposed (1) a greater reliance on the pastoral and consensual (rather than the legal) authority of the bishops, and (2) a new final court of appeal which should derive a visible portion of its authority from the Church.

On both the legislative and judicial sides, the intention of the Commission is plain: that the present authority of Parliament in regard to legislation shall be further ousted in favor of the authority of the Church officials, and that the present authority of the civil courts in matters of discipline shall be replaced by disciplinary activity exercised by the officers of the Church. The Commission's report is characterized by a refreshing realism, since it has long been clear that the majority of those active in church affairs, both clergy and laity, will no longer accept less autonomy for the church than the Commission suggests. Yet the serious political question remains, that most non-Anglicans, whether non-conformists, atheists, anti-clericals, or whatever the basis of their disaffection towards the Church, look upon any attempt to secure greater autonomy for the Church of England without disestablishment as an attempt to secure freedom without paying the price.⁶

On this account, no contemporary British government, however devoted its individual members to the Church of England, is likely for some time to permit the enactment into law of the Commission's proposals. But the significance of the report is much more than that of a vain aspiration. The Commission was composed of very respectable, and in most cases distinguished and important, gentlemen—representative not of extremists but rather of the officialdom of the Church (whose high offi-

⁴ *Report*, p. 62.

⁵ *Report*, pp. 65-71.

⁶ Cf. leaders in the *Manchester Guardian* for January 24, 1936, and the *New Statesman and Nation* for February 1, 1936. See also a sharply unsympathetic article by A. L. Rowse, "The Dilemma of Church and State," in *Political Quarterly*, Vol. 7, pp. 368-384 (1936).

cials, it must be remembered, are still chosen on the advice of His Majesty's ministers). If the authorities of the Church made such proposals, the life and thought of the Church have clearly stepped out from under the control, however one might attempt to exercise it, of the state, and the state can no longer rely upon the Church as a willing partner to its every act.

E. P. CHASE.

Lafayette College.

Dominion Disallowance of Provincial Legislation in Canada. Although there is a federal form of government in both the Dominion of Canada and the United States, there are striking differences in the two types of federalism. Some of these differences are to be found in fundamentals, such as the basis upon which the powers of government are divided in the two countries. Less striking, but nevertheless significant, are still other points of variance. Among these is the power which the dominion government has to disallow legislative acts of the provinces. Just why the fathers of the Canadian federation thought this power should be given to the central government is not clear. The fact remains, however, that in the years from 1867 to 1935, at least 114 provincial acts and territorial ordinances were set aside. It is important to note that these acts were disallowed by executive officers of the dominion government. Executive officers of the national government in the United States do not possess similar powers where state legislation is concerned.

How does disallowance occur? The terms of the British North America Act of 1867 have been construed in such a way that a copy of every provincial act must be sent to the governor-general.¹ Although he may not pass on these acts alone, the governor-general *in council* is vested with the power to disallow them. In practice, it has been the ministry of justice that has assumed the initiative in disposing of such matters. Decisions of the cabinet and recommendations to the governor-general have usually been based upon information supplied by the minister of justice. Should the dominion government desire to exercise its power of disallowance, it must do so within one year from the date when an act has been received.² Signification by the governor-general in council that a provincial act has been annulled constitutes disallowance.

Procedure in connection with disallowance may be initiated by the ministry of justice after examination of provincial legislation which has already been received, or by an interested party or parties who may com-

¹ Sections 56 and 90. See A. H. Lefroy, *Canada's Federal System* (Toronto, 1913), p. 31.

² A. H. Lefroy, *Canadian Constitutional Law* (Toronto, 1918), p. 62. Also, W. P. M. Kennedy, *The Constitution of Canada* (London, 1922), p. 415.

municate with the ministry of justice.³ The British government cannot interfere directly with provincial acts, for the power of disallowance resides in the dominion government only.⁴ Nevertheless, the imperial government may be concerned with legislative acts of the provinces and may wish to have them disallowed. In such instances, the imperial government has brought the matter before the government at Ottawa.⁵ Foreign governments have also drawn the attention of the dominion government to the contents of acts of the provincial legislatures.⁶ When provincial acts come before the minister of justice and disallowance is contemplated, an investigation is made and a recommendation given to the governor-general in council. If the recommendation is approved, disallowance follows as a matter of course. This has been the usual procedure. Upon occasion, however, another method has been followed. If the time limit within which disallowance must occur has not expired, and if before expiration of this period a session of the provincial legislature will take place, the provincial government may be requested to amend a statute in dispute.⁷ By these amendments the cause or causes for disallowance may be removed and the necessity for further action by the dominion government avoided.

Where the power to disallow has been used, it has been made to apply to a wide variety of subjects. A survey of the law-making efforts of provincial legislatures which have been set aside by the dominion govern-

³ See, for example, the protest made against an Ontario statute by the Dominion Association of Chartered Accountants. The communication of the minister of justice to the governor-general in council reads, in part: "Recently, . . . a petition dated 31st ultimo has been received from the Dominion Association of Chartered Accountants praying for . . . disallowance . . . and they allege, apparently with truth, that the effect of this section (42) is to prohibit the members of the Dominion Association from describing themselves as . . . Dominion Chartered Accountants. . . ." See *Provincial Legislation, 1896-1920* (compiled by F. H. Grisborne and A. A. Fraser, Ottawa, 1922), pp. 89, 90.

⁴ Lefroy, *Constitutional Law*, p. 62.

⁵ In 1899, for example, the United States protested against the discriminatory character of a British Columbia statute affecting the position of aliens engaged in mining in that province. The petition of interested United States citizens was sent to the British *chargé d'affaires* at Washington, who in turn communicated with his government in London. Notice was sent from the imperial government to the dominion government at Ottawa. *Provincial Legislation*, p. 566.

⁶ See *Provincial Legislation*, p. 538, for a communication from the minister of justice to the governor-general in which attention is drawn to the protest lodged by the Japanese consul at Vancouver against a British Columbia statute regulating labor.

⁷ See, for example, a communication of the minister of justice to the governor-general in council respecting a Manitoba statute seeking to incorporate an accident insurance company. *Provincial Legislation*, p. 515. See *ibid.*, p. 567, for similar procedure on a British Columbia statute.

ment indicates that the central government has interfered with some of the most important fields in which provincial legislation might be enacted. Some of the disallowed acts have included provincial attempts to regulate immigration, to incorporate banks, insurance companies, and public utilities, to regulate the mining of ores, to subsidize railroads, and to regulate the sale of liquor. Just as the subject-matter dealt with has been extremely varied, so have been the reasons why disallowance has taken place. We find, to cite but a few cases, that statutes have been disallowed because the provincial legislation in question conflicted with dominion legislation which already properly occupied the field.⁸ Further, a common ground for disallowance has been the claim that provincial legislatures have exceeded their powers by legislating in fields properly belonging to the dominion government under Section 91 of the British North America Act.⁹ Other instances show that a province or territory has violated treaty rights, a condition deemed sufficient to make disallowance necessary.¹⁰ Very often, disallowance has occurred on the grounds of unjust interference with individual rights and property.¹¹

The frequency with which the dominion's power of disallowance has been used has varied considerably at different periods in Canada's history. In the years from 1867 through 1895, no less than 72 acts and ordinances were set aside.¹² In the years from 1896 through 1920, a period of almost equal length, 37 provincial acts and ordinances were annulled.¹³ From 1920 to 1935, only five acts passed by provincial legislatures fell before the disapproval of the dominion government.¹⁴

In the first period mentioned, the greatest number of acts to be disallowed in any one province was 26, in Manitoba. British Columbia, with 20, was a close second. Seven ordinances (as distinct from legislative acts)

⁸ *Ibid.*, p. 90, for action on the Ontario Chartered Accountants Act of 1908.

⁹ *Dominion and Provincial Legislation, 1867-1895* (Government Printing Bureau, Ottawa, 1896), p. 1093. See the statement made in connection with the setting aside of the British Columbia Immigration Act of 1884.

¹⁰ *Ibid.*, p. 1256. A Northwest Territory ordinance of 1889 set aside.

¹¹ Remarks of Minister of Justice Aylesworth in the House of Commons on March 1, 1909. See *Debates in the Canadian House of Commons*, pp. 1750ff. A convenient summary of the general grounds for disallowance of provincial acts is given by Lefroy in his *Constitutional Law*, p. 63. His classification is as follows: "1. because the provincial act in question is an abuse of power and contrary to sound principles of legislation, as, e.g., amounting to spoliation or a violation of property and vested rights, under contracts or otherwise; 2. because it is *ultra vires*, and therefore invalid; 3. because it conflicts with imperial treaties or imperial policy; 4. because it conflicts with dominion policy or interests."

¹² See *Dominion and Provincial Legislation, 1867-1895*.

¹³ See *Provincial Legislation, 1896-1920*.

¹⁴ Communication to the writer from the deputy minister of justice, July 29, 1935.

were set aside in the Northwest Territory, while in Ontario and Nova Scotia six acts in each province were disallowed. The remainder of the 72 can be accounted for by the disallowance of four statutes in Quebec, two in Prince Edward Island, and one in New Brunswick. In the second period, British Columbia headed the list with 22, while Manitoba and Saskatchewan had three each. Ontario and Quebec each had one act annulled. Seven ordinances were set aside, five in the Yukon Territory and two in the Northwest Territory. Since 1920, legislative acts in only three provinces have been disallowed. Three were annulled in Nova Scotia and one each in Alberta and British Columbia.

From what appears in the preceding paragraph, it is clear that from a power which was once resorted to with considerable regularity dominion disallowance of provincial legislation has, in more recent years, almost fallen into disuse. The change in practice corresponds to changing theories as to the extent to which disallowance should be applied. To many Americans, it is, of course, striking that the central government in a federation should possess this degree of control over certain types of legislation enacted by the member units in that federal organization. In the Canada of 1864-66, however, there were many who, like J. A. Macdonald, wished to see a strong central government created.¹⁵ They believed that the war between the states to the south of them was due, in part, to weakness at the center. That the dominion government should be able to disallow provincial legislation did not seem strange to them. In the years immediately following 1867, resort to the power of disallowance was influenced, to some degree, by these views. In referring to that early period, the attorney-general of British Columbia said: "In the early days of confederation, the dominion executive appears to have been imbued with the notion that the relation between the dominion and the provinces was analogous to that existing between parent and child, and to have acted accordingly."¹⁶ It is true that this view was accepted by those strongly desiring a powerful central government. Indeed, in some quarters extreme lengths were resorted to in the attempt to justify dominion checks over provincial legislative acts. What might be called the "strong dominion" attitude was based, by some, upon natural as well as constitutional law. Mr. Justice Draper once said: "The governor-general . . . is entrusted with authority, to which a corresponding duty attaches, to disallow any law contrary to reason, or to natural justice or equity."¹⁷

Mr. Justice Draper's opinions, popular as they were in some quarters,

¹⁵ See W. P. M. Kennedy, *The Constitution of Canada* (London, 1922), especially pp. 302ff.

¹⁶ As quoted in Lefroy, *Canada's Federal System*, p. 36.

¹⁷ Justice Draper in *re Goodhue*, 19 *Grant's Chancery Reports*, 384.

were equally alarming in others. If persisted in, many felt that this interpretation of the dominion's power to disallow provincial legislation threatened the position of the provinces and might even reduce them to the status of municipalities. But not long after the British North America Act came into operation doctrines of another nature became widely accepted where the power of disallowance was concerned. This was partly due to the fact that fundamental theories of the very nature of Canada's federal system underwent a change. A series of decisions by the Judicial Committee of the Privy Council, in interpreting the British North America Act, had the effect of strengthening provincial powers.¹⁸ Furthermore, growing particularism in the provinces became of political importance when stimulated by staunch advocates of provincial rights. With this change of attitude, it is not surprising that the power of disallowance was used less frequently after 1902 than before that time. In 1905, the government of British Columbia spoke not for itself alone when it stated that an act of a province ought not to be disallowed by the dominion government "unless the bill should be a clear and palpable attempt on the part of the province to invade the legislative field of the dominion parliament."¹⁹

In recent years, it has been recognized by commentators²⁰ on Canadian constitutional law that the dominion government should use the power of disallowance only after considerable hesitation.²¹ Provincial legislatures are now regarded as being equal, in their spheres, with the dominion legislature, and the dominion government, it is argued, cannot interfere with the independence of these legislative bodies. It is now generally agreed that many of the grounds which, in the past, prompted the dominion government to disallow provincial legislation were matters which ought more properly to be disposed of in the courts. No provincial acts are now disallowed because they may be "unjust" or in "violation of natural justice." Whether these newer views will lead to a demand that the power of disallowance be abolished altogether remains to be seen.

HARLOW J. HENEMAN.

University of Michigan.

¹⁸ See W. P. M. Kennedy, *Essays in Constitutional Law* (London, 1934), p. 148ff., and the cases there cited.

¹⁹ In 1918, the minister of justice, in a communication to the governor-general, commented at length upon the "great reluctance to interfere with provincial legislation." He continued by indicating measures which had been taken in order to avoid a resort to disallowance. *Provincial Legislation*, p. 708.

²⁰ See, for example, A. B. Keith, *Constitutional Law of the British Dominions* (London, 1933), p. 299.

²¹ The last case of disallowance of a provincial act was in 1923. Communication from the deputy minister of justice to the writer, July 29, 1935.

Workers' Parties Show Gains in Sweden and Norway.¹ Every twelve years, the parliamentary elections in Sweden, which take place quadrennially, and those in Norway, which occur triennially, fall within a few weeks of each other. In 1936, spirited contests in these two Scandinavian countries (September 21 in Sweden and October 19 in Norway) culminated in gains in each case for the workers' parties. The workers' parties of these two contiguous democracies have much in common. Both are moderately socialistic, and both are believers in the democratic parliamentary system of government. The official title of the Norwegian party is Labor, while that of the Swedish is Social Democrat.

In opposition in each case are the *borgerlige* (loosely translated "bourgeois") parties, of which the most powerful in each country is a well established traditionally conservative party, called literally the Right (in Sweden Högern, in Norway Høyre), but in each case loosely translated as "Conservative." In addition to the Conservatives, each country has a Peoples' Party (in Norway known as Venstre, literally Left) of considerable strength but of decreasing influence because of its difficult position between two vigorous parties on its right and left respectively. In each country we find also a strong agrarian party. In Norway, this party is in violent opposition to Labor; in Sweden, however, the farmer group is not unsympathetic with Social Democrats—in fact, the new Swedish cabinet reorganized by the latter, following the September elections, includes three Agrarians. The Communists also are organized in both Norway and Sweden, but in each country they constitute a decidedly minor party. In both countries, there are small but active fascist organizations, but in neither election did these groups win any seats in Parliament.

These two elections received scant notice in the American press. Occurring as they did coincident with our heated presidential campaign, and at a time when whatever attention Americans were giving to European affairs was attracted toward Madrid, Moscow, Paris, Berlin, Rome, and London, it is not surprising that they passed practically unnoted: and yet, because Norway and Sweden are outstanding examples of successfully functioning democracies, with intelligent electorates exercising suffrage in bitterly fought contests and in an atmosphere of full and free discussion, they deserve the careful attention of those who are studying the processes of popular government. In both countries, the interest of the electorate was at white heat. The respective party leaders and candidates conducted vigorous campaigns by mail, platform, press, radio,

¹ The information on which this note is based has been obtained from *Arbeiderbladet* (Oslo Labor daily), *Oslo Høyre* (Conservative monthly), *Medborgaren* (Conservative monthly, Stockholm), and from conferences with Mr. Stig Unger, attaché to the Swedish legation, and Mr. Jorgen Galbe, first secretary of the Norwegian legation, in Washington.

bill-boards, films, and loud speaker automobiles; and huge crowds attended meetings. In both countries, too, an unusually heavy vote was recorded. Adult suffrage prevails in both; and in both the list system of proportional representation is used.

In both countries, the workers' parties were the "ins" and were asking for a continuance in power, which, as shown in the tables below, was granted by the voters in each case. In Sweden, where the gains of the workers' party (Social Democrat) were more pronounced than those in the neighboring democracy, the "ins" were accused of waste and extravagance, of levying unduly heavy taxes, of piling up a huge national debt, and of desiring a dictatorship. The "ins" pointed to recovery, to improved living conditions for the average man, and insisted that they were "spending to save." A live issue was raised by the active support by the Social Democrats of a program of work relief in the form of public works, with labor paid as in the open market, accompanied by supertaxes on big fortunes. The Conservatives opposed both of these proposals, although the Agrarians supported them.

The results of the voting on September 21, compared with those of the previous election, were as follows:

<i>Swedish parties</i>	<i>Popular vote</i>		<i>Members elected</i>	
	<i>1932</i>	<i>1936</i>	<i>1932</i>	<i>1936</i>
Social Democrat	1,040,698	1,338,057	102	112
Conservative	570,784	512,425	53	44
Agrarian	351,215	418,830	37	36
Peoples' Party	304,055	376,179	25	27
Left Socialist	132,564	127,827	8	6
National Union (Fascist)	6,019	26,741	3	0
Communist	74,245	96,474	2	5
National Socialist	15,170	20,306	0	0
			<u>230</u>	<u>230</u>

In Norway, the "ins" (Labor) faced the attacks of all other parties, for here the Agrarians, as indicated above, did not show the sympathy for the workers' party which the similar group in Sweden manifested for the Social Democrats. The bourgeois parties tried to persuade the voters that a Labor victory would mean terrorism, dictatorship, and Marxism and presented in varying forms suggestions for moderate social change. "A free people in a free Norway" was a common anti-Labor slogan. The Conservatives claimed to be the defenders of Christianity, and the Labor government was bitterly criticized for allowing Leon Trotsky to take up his domicile in Norway. Tsjernavin's *I Speak for the Silent* was translated into Norwegian and was distributed by the Conservatives. In post-election statements, the Labor leaders admitted that the Russian scare had cost them votes, especially in the regions along the coast. During the

campaign, the Laborites pointed to the balanced budget under their government, to recovery, and to their social program, including housing, school subsidies, and old age benefits. They broadcast the news that a certain multimillionaire was giving financial support both to the Conservatives and to the National Union (Fascists). The latter group was led by the colorful Major Vidkun Quisling, who as early as the 1933 campaign was alluded to as the coming Hitler of Norway.

As a result of the election, the Labor government of Premier Johan Nygaardsvold continued by virtue of the Labor plurality in the new Storting, even though his party is still a few votes short of a majority. The following table shows the results of the voting on October 19 compared with those of the previous election:

<i>Norwegian parties</i>	<i>Popular vote</i>		<i>Members elected</i>	
	<i>1933</i>	<i>1936</i>	<i>1933</i>	<i>1936</i>
Labor	499,421	617,456	69	70
Conservative	270,658	301,334	31	36
Radical (Left) and Radical Peoples'	218,545	236,030	25	23
Agrarian	175,108	157,132	23	18
Communist	23,301	4,376	0	0
National Union (Fascist)	27,775	26,406	0	0
Commonwealth Party	18,974	44,797	1	1
Christian Peoples'	10,237	19,454	1	2
			150	150

BEN A. ARNESON.

The American University.

INTERNATIONAL RELATIONS

Neutrality—as of 1936 and 1937. The neutrality legislation enacted at Washington in 1935¹ was admittedly a compromise, satisfying neither the President, who in his statement upon signing the joint resolution, again criticized its mandatory feature as potentially dangerous;² nor many of those in and out of Congress who wanted some definition of our relation to war. As if to point the moral, the Italo-Ethiopian conflict flamed into what the President was pleased to call "a state of war," and some of the very issues which the legislation was intended to meet became acute. More recently, civil war in Spain has tragically illuminated new issues in our position and policy.

It is unnecessary here to trace the course of United States action with respect to the sanctions experiment. The problems were not susceptible of easy or simple solution, and the application of the new legislation was certainly as coöperative with the sanctions-enforcing states as it could well be made—a good deal more so than a strict interpretation might have suggested.³ Criticisms were levelled at the President's actions by the isolationists as well as by those favoring active coöperation in collective security. The time limit in the 1935 resolution (February 29, 1936), if no other factors had been operative, would have made further consideration of our neutrality policy imperative. But events abroad joined with domestic pressures to make the issue inevitably one of major importance in the second session of the Seventy-fourth Congress. The present paper will first trace the history of the 1936 legislation; second, indicate certain of the factors which immobilized action beyond the scope of the joint resolution finally enacted; and third, suggest and appraise some of the issues which remain to be considered in any future and more permanent definition of American policy.

I

The 1935 legislation fell short of the hopes of large sections of the peace forces of the country in principle, and was hardly less defective in terms of comprehensiveness and clarity. It was passed with little or no debate, and with inconsiderable preliminary committee investigation or consideration.⁴ Admittedly a stop-gap measure, future action was implicit in the

¹ See my "Current Neutrality Problems" in this REVIEW, Vol. 29, pp. 1022-1041 (Dec., 1935).

² *New York Times*, Sept. 1, 1936, p. 1.

³ See R. L. Buell, "The New American Neutrality," *Foreign Policy Reports* (1935-36), No. 23, pp. 281ff. A paper on this question will appear in 1937 in *Problems of Peace* (11th Series, London, Allen and Unwin, Chap. 7).

⁴ Professor P. C. Jessup has spoken of it as "a hodge-podge of ideas scrambled together in the legislative trying-pan in the closing days of a hot summer session in Washington." *Neutrality Today and Tomorrow* (New York, 1936), p. 124.

time limit of February 29, 1936, imposed on it in Section 1. The complications, practical and ideological, arising out of the Italo-Ethiopian dispute hastened, if they did not facilitate, debate upon many old and several fresh issues.

Discussion of changes in the legislation began outside of congressional circles some weeks before the opening of the new session. During October and November, many peace groups had supported the action of the President in announcing the trade-and-travel-at-risk principle in relation to the Italo-Ethiopian dispute. In December, interest in prospective legislation steadily developed. Various agencies passed resolutions favoring more effective prohibition of the export of war materials other than munitions, or closer collaboration by the United States in the common effort for collective security.⁵ Most important of these was undoubtedly the newly organized National Peace Conference, representative of most peace agencies except the extreme pacifist groups. It held a number of meetings and, toward the end of December, issued a proposed neutrality statute, with a commentary, which had been drafted by a number of outstanding international lawyers. This received wide publicity and represented a broad band of popular opinion on the issues in dispute.⁶

Within Congress, also, activity began before the opening of the session. Interest had no doubt been stimulated by recent events.⁷ The increasing evidence, brought out by the Senate special committee investigating the munitions industry, of attempts to influence legislation on the question agitated several members of the House.⁸ Most important, perhaps, was the still unsettled issue of principle between the isolationists and the coöperators—between those who wished to see mandatory embargoes continued, and perhaps extended, and those who were ready to grant discretionary powers to the President.

These divergences of opinion continued to agitate congressional attitudes at the opening of, and indeed throughout, the session.⁹ Again,

⁵ See, for instance, "The Federal Council of Churches," *New York Times*, Dec. 4, 1935, 14: 2.

⁶ See *New York Times*, Dec. 19, 1935, 19: 4; *ibid.*, Dec. 26, 1935, 1: 1; *International Conciliation* (New York, Carnegie Endowment, 1936), No. 316.

⁷ See, for instance, *New York Times*, Dec. 25, 1935, 3: 1, for a proposal by Senators Clark and Pope for the extension of embargoes to coal, iron, steel, and cotton.

⁸ See 74:1, *Hearings Before the Committee on Foreign Affairs on H.R. 8788*, 34ff. The evidence of legislative activity by the DuPont interests is to be found in Part 5 of the hearings of the committee referred to above (73rd Cong., pursuant to S. Res. 296, 1934), 1071ff., 1110ff.

⁹ The groupings have been noted by C. Eagleton in "La Législation sur neutralité aux États-Unis," *Revue de droit international et de législation comparée*, Vol. 17, pp. 461, 464, 471-472 (1936), and J. W. Garner, "Recent Neutrality Legislation of the United States," *British Yearbook of International Law*, Vol. 17, pp. 45, 49 (1936). "The debates in Congress revealed some six different shades of opinion, with little prospect of reconciliation."

numerous bills were introduced (nine in the House, five in the Senate). From the beginning, however, it was evident that two were of most significance: the so-called "Administration" bill, sponsored by Senator Pittman and Representative McReynolds,¹⁰ and the isolationist measure, introduced by Senators Nye and Clark and Representative Maverick. President Roosevelt had already spoken in his message to the new Congress on January 3, 1936, of our "two-fold neutrality policy," to prevent the export of munitions, and "to discourage the use by belligerent nations of any and all American products calculated to facilitate the prosecution of war, in quantities over and above our normal export of them in time of peace"—one of the points of agreement between the Administration and isolationist bills.¹¹

It may be convenient to summarize here the main points of similarity and difference between these measures. The following table indicates the elements included in both bills and their prescriptions concerning them:

TABLE OF INCLUSIONS OF RESTRICTIONS ON ACTS BY AMERICAN CITIZENS
IN

	<i>Administration—</i> (74:2, H. J. Res. 492)	<i>Isolationist—</i> (74:2, H. R. 9668)
<i>Embargo on:</i>	<i>Bills</i>	
Arms, munitions, implements of war:		
To original belligerent; or for trans-shipment via neutrals: (b)	Discretionary (Sec. 3) (a)	Mandatory (Sec. 2)
Extension to new belligerents	Mandatory (c) (Sec. 3, c)	Mandatory (Sec. 2, c)
Other materials: (d)		
Extension to new articles	Discretionary (Sec. 4a, b)	Mandatory (Sec. 3)
Extension to new belligerents	Mandatory (Sec. 4c)	Discretionary (Sec. 3)
Loans and credits: (e)	Mandatory (Sec. 5)	Mandatory (Secs. 9, 10)
Use of American vessels:		
Prohibition of carriage of arms	Mandatory (Sec. 7a)	Mandatory (Sec. 4)
Other war materials	Discretionary (Sec. 7b)	Mandatory (Sec. 4)
Voyages in war zones		Prohibited (Sec. 5)

¹⁰ There were slight differences between the Pittman and McReynolds drafts.

¹¹ Foreign reactions to the President's message and to the conflicting neutrality bills indicate how closely the development of American policy was watched—and weighed—abroad. See, for instance, *New York Times*: Jan. 3, 1936, 9:3 (France); Jan. 5, 30:3 (Geneva); 30:4 (Italy); 31:5 (Germany); Jan. 6, 6:4 (Great Britain); 7:1 (France); 7:2 (Argentina).

Trade by U. S. citizens with belligerents at own risk: (f)	Discretionary (Sec. 9)	Mandatory (Sec. 7)
Travel of U. S. citizens on belligerent vessels	Except at own risk (Sec. 10)	Prohibited (Sec. 8)
Use of American ports:		
Export of prohibited articles on American vessels	Discretionary bonding of vessels (Sec. 11)	
Entry of submarines	Discretionary (Sec. 12)	Discretionary (Sec. 12)

(a) The extent of the "discretion" was considerably diluted by Section 6 of the Administration bill, which was apparently introduced to temper congressional opposition to the principle itself: "Any embargo, prohibition, or restriction that may be imposed by or under the provisions of . . . this Act shall apply equally to all belligerents, unless the Congress, with the approval of the President, shall declare otherwise."

(b) The Administration measure followed the 1935 legislation in providing for executive action "upon the outbreak or during the progress of war"; the isolationist made the embargo mandatory "upon the outbreak."

(c) This was a change from discretionary to mandatory extension to other belligerents as provided for in the 1935 legislation (Sec. 1). The Administration bill defined the condition as "when they may become involved." The isolationist as "when they become engaged as belligerents."

(d) Numerous differences in detail of wording appear in two sections; the period on the basis of which quotas are to be established was left to executive discretion in the Administration; and defined as five years in the isolationist, bill. Food and medical supplies were exempted in the Administration measure.

(e) There is a further provision for the non-enforceability of contracts in American courts and the lapse of right title or interest on the part of the American exporter.

(f) The risk is to be that "of a foreign government or national thereof."

In addition, both bills contained substantially similar provisions for the creation of a National Munitions Control Board. The isolationist bill was, in general, much more detailed, especially with regard to the treatment of vessels in American ports and the issuance of securities, loans, and credits. The isolationist bill also provided penalties for abuse of the American flag by belligerent vessels. The Administration measure empowered the President to enter into negotiation for the modification of treaties found to be inconsistent with the legislation, and if unable to effectuate it, "in his discretion to give notice of termination." A section (16b) in the Administration bill which provides that "except to the extent that the law and rules of neutrality are or may be temporarily or provisionally modified by or under authority of this act, the United States reserves and reaffirms its rights under international law as it existed prior to August 1, 1914," suggests a pious hope (especially when

read with Section 6 noted above) of sailing between the Scylla of isolationist dogma and the Charybdis of international complications.¹²

Other bills introduced provided for extension of the 1935 legislation, or covered the same subjects as dealt with in the foregoing measures less comprehensively. None got beyond committee stage.

The conflicting viewpoints on the whole question were not reconciled in the hearings which were held by the committees of the Senate and House. Opinion within the committees ranged from extreme isolationist and traditionalist (reliance on historical neutral "rights" alone) to mildly coöperative or, at least, agreeable to executive discretion in the application of embargoes. Evidence before the committees roughly paralleled the views of their members. One new and persistent vocal interest, the American Italians, already critical of the President's policy and desirous of seeing it modified, was conspicuous, especially before the House Committee on Foreign Affairs.¹³ The trade-at-risk policy was supported by a number of active proponents, academic and otherwise; some witnesses desired an even more positive policy of active defense of American traders' exports to belligerents, by the abrogation of the 1935 legislation on neutrality.¹⁴

It was evident, before the committee stage was completed, that no unanimity could be achieved within the committees. It was proposed in the Senate committee to report out a resolution to extend the existing law for another year.¹⁵ In the House, the Administration bill was reported out on January 28, but was not debated.¹⁶ There was substituted for it, on February 17, the compromise measure on which agreement had evidently been reached between House and Senate leaders. Forty minutes was allowed for debate; most of the allotted time was devoted to a denunciation of "this most vicious gag rule," as one member termed it.

¹² Is there not a certain inconsistency between all this and at least two treaties already ratified by the United States: the Anglo-American convention of May 19, 1927, providing for the renunciation of claims for infractions of neutral rights during the Great War, and the Pan American Neutrality Convention of 1933, setting forth an elaborate series of rules of neutrality? Yet this draft had presumably received State Department scrutiny.

¹³ See 74:2, Hearings before the Committee on Foreign Affairs on H.J. Res. 422. (1936). "American Neutrality Policy," 177, 183, 199, 205, 208, 214 ff. See also 74:2, Hearings before Committee on Foreign Relations on S. 3474 (1936). "Neutrality," 259 ff.

¹⁴ Those who testified before the Senate committee were Secretary Hull, Assistant Secretary Moore, and Mr. Green H. Hackworth of the Department of State, Senator Nye, Mr. Charles Warren; also Professor E. M. Borchard, who strongly reinforced the well-known position of Dr. J. B. Moore. See *New York Times*, Jan. 30, 1936, 13:5. Professor Borchard also testified before the Committee on Foreign Affairs, as did Professor C. C. Hyde.

¹⁵ *Op. cit.*, 283 (Senator Thomas).

¹⁶ *Congressional Record*, Vol. 80, p. 1143.

Action in the Senate on its own similar measure was deferred from the 17th to the 18th, when the House joint resolution was substituted, debated, and passed without a record vote.¹⁷ Throughout the debates in both houses, the "emergency" of the approaching expiration of the 1935 measure was the principal argument in favor of its compromise extension. Inability to secure any unanimity among conflicting viewpoints made the hope of permanent and comprehensive legislation illusory.

The final measure¹⁸ extended the 1935 resolution to May 1, 1937; changed the wording in two instances, in one case to reduce executive discretion; and added two new items, one substantive, one procedural. The President's discretion was pared still further by removing his power to extend the arms embargo to belligerents entering a war subsequent to its outbreak and substituting a mandatory requirement to do so. The other change in wording might, perhaps, be considered as recognizing more specifically his discretion in determining the existence of war. For the words "upon the outbreak of war . . . the President shall proclaim . . ." were substituted, "whenever the President shall find that there exists a state of war."¹⁹ The substantive addition was the prohibition of sale of securities of or the extension of loans and credits to belligerent states. The procedural change was an indirect reassertion of the Monroe Doctrine prescribing that "the act shall not apply to an American republic or republics engaged in a war against a non-American state or states, provided the American republic is not cooperating with a non-American state or states in such war."

The President approved the resolution on February 29, and reiterated his support of further limitations on trade with belligerents in the interest of preventing the continuation of war.²⁰ •

¹⁷ *Ibid.*, pp. 2175 ff., 2286 ff. Two amendments—one by Senator Clark to limit the act to May 1, 1936, and one by Senator Bone to insert the trade-at-risk principle in the resolution—were defeated 16 to 61 (19 not voting) and 18 to 55 (23 not voting), respectively.

¹⁸ 74:2, H.J. Res. 492, Pub. Res. 74. For text, see *Amer. Jour. Internat. Law*, Vol. 30, Supp., p. 109 (1936).

¹⁹ Senator Thomas explained these changes as "merely clarifying amendments, making the words mean what the authors of the original law always thought the words meant." *Congressional Record*, Vol. 80, p. 2188. The President's proclamation (No. 2140) of October 5, 1935, "finding" a state of war to exist, can, therefore, be considered as within congressional intent, so far at least as executive action is concerned. It is, however, interesting in another connection, to be noted below, viz., the application of the term "state of war" to facts not hitherto technically considered war in the legal sense.

²⁰ *New York Times*, Mar. 1, 1936. The President stated: "The policies announced by the Secretary of State and myself at the time of and subsequent to the issuance of the original proclamation will be maintained in effect. It is true that the high moral duty I have urged on our people of restricting their exports of essential war

II

The "hodge-podge" remained—why? Despite the handwriting on the wall (or perhaps because of it), which exposed the limitations in the existing law when tested in the practical situation of the Italo-Ethiopian dispute, no important progress was made toward the restatement of American policy.

Many factors, no doubt, contributed to the result. There was little or no active executive support in congressional circles for the executive's own measure. Had the Administration neutrality bill been pushed on Capitol Hill as some other measures have been, it is more than likely that a compromise would have been achieved among the supporters of stricter neutrality legislation. Perhaps it was the profound differences of opinion in both houses that immobilized executive pressure. For those differences originated in conflicts of ideas that, in turn, are rooted in wide differences of interest in the country. They received only incidental mention in the debates, but it is, perhaps, relevant to notice some of the elements that affect the pattern of opinion on neutrality policy.

Disputes crystallized around two major questions: discretionary versus mandatory power of the President to declare embargoes, and extension of the embargo, trade-at-risk, or peace-time-trade quota principle to war materials other than munitions. In the first, many of the real issues emerged; in the second, they were clouded in ratiocinations of legal argument and patriotic appeal.

The underlying question as to the discretionary embargo principle involved the degree of American coöperation in international efforts at collective security. The die-hard isolationists were unanimous in their opposition to giving the President any leeway in this direction. But, as already noted, the 1935 and 1936 measures did grant—as inevitably any such legislation must—considerable latitude. Even the inconclusive terms of Section 6 of the Administration bill [see table, note (a)] marked, from the point of view of international coöperation, a real advance on the 1935 legislation. The issue becomes one, therefore, of relative flexibility, and on that issue the peace groups were not sufficiently united to bring any effective pressure to bear either on the President to support the Adminis-

materials to either belligerent to approximately the normal peace-time basis has not been the subject of legislation. Nevertheless, it is clear to me that greatly to exceed that basis, with the result of earning profits not possible during peace, and especially with the result of giving actual assistance to the carrying on of war, would serve to magnify the very evil which we seek to prevent. This being my view, I renew the appeal made last October to the American people, that they so conduct their trade with belligerent nations that it cannot be said that they are seizing new opportunities for profit or that by changing their peace-time trade they give aid to the continuation of war."

tration bill or on Congress to enact it.²¹ Their failure to agree—and to act—left the proponents of coöperation without any important support in public opinion, which still required education on the issues involved in what seemed a more or less technical matter of administration. It is one more instance of the futility of fractionalism in a situation where only a united front is capable of exerting effective pressure for legislation.²²

The second question, the trade-at-risk or embargo of war materials, was discussed at great length in both committees. A memorandum by Professor John Bassett Moore was submitted to the Senate Committee, and Professor E. M. Borchard testified before both committees.²³ The arguments presented had to do not merely with the discretionary feature of the embargo of war materials which was most strongly criticized, but with the principle itself. Various objections were put forward, chiefly designed to indicate the unneutral character under existing international law of such embargoes and of the prohibition on American vessels in carrying such cargoes. The opinion was expressed that, were it not for the state of public opinion, it would be a wiser policy not to embargo even munitions. The prohibition of loans and credits would, it was pointed out, “take care of most of the difficulties . . . concerning alleged ‘abnormal’ trade.” The principle of trade-at-risk was objected to as illusory. “Either the foreign government or the American shipper would have been misled” if an attempt to “reserve the freedom of the seas” were made under it. The implicit assumptions of the testimony appear to be two: the “right” of individual traders to carry on business where and with whom they please; and the continuing validity and unlikely abrogation in future wars (many of which may not be world wars) of historical doctrines of international law regarding such matters as contraband, indirect trade, etc.—or, to put it in other terms, the national interest of the United States in maintaining the traditional rules of neutrality, and the likelihood of its ability to do so.

The influence of the testimony in buttressing isolationist opinion in the Senate is evident from the debates.²⁴ It may, therefore, be useful to note one element in the situation which was indirectly adverted to in the debates,²⁵ i.e., the relation of the exporting industries to legislation restricting shipments to belligerents. The maintenance of traditional international law doctrines as to rights of neutral trade appears to be, and was

²¹ The mobilization of peace-group pressure was so late as to be of little real importance. It was exerted ineffectively on the last day of the Senate debate, February 18. See *Congressional Record*, Vol. 80, p. 2304.

²² See B. Bliven, “They Cry ‘Peace, Peace,’” *New Republic*, Vol. 85, p. 36.

²³ House Committee, *op. cit.*, pp. 51ff.; Senate Committee, *op. cit.*, pp. 171, 208ff.

²⁴ See, for instance, *Congressional Record*, Vol. 80, pp. 2287 (Pittman), 2296 (Pope).

²⁵ *Ibid.*, p. 2293 (Bone), p. 2262 (Smith).

widely, interpreted as the most advantageous governmental policy from the point of view of the export trades, whether in munitions or other war materials.²⁶ The dependence of many American industries on foreign markets, especially in Europe, for the continuance of high levels of production has frequently been pointed out.²⁷ The relation of the extension of loans and credits to belligerents to the continuance of war-time trade was realized by many in and out of the government during the Great War.²⁸ The question cannot be as thoroughly explored here as it should be; two aspects, one general, one specific, will, however, be considered briefly.

Generally, as to the domestic prosperity resulting from industrial activity stimulated or maintained by sales to belligerents in war time (very unevenly distributed from the national point of view, sectionally or socially), subsequent involvement in the war, if it occurs, inevitably produces an overwhelming net loss to the country.²⁹ And the evidence of the increasing likelihood of involvement arising out of trade relations is, as has been suggested, cumulative. It is, therefore, not unimportant to keep in mind the balance sheet of war costs in appraising the value of war trade in terms of "national interest."³⁰

Specifically, too, it is by no means clear that an embargo on trade in war materials with belligerents would mean a total loss of exports even in these items.³¹ The development of closer collaboration among neutrals, not only diplomatically, but in the stimulation of inter-neutral trade, if it would not offset, would mitigate, the immediate domestic hardships (to individual entrepreneurs and workers) of an embargo, or a peace-

²⁶ *Ibid.*, pp. 2171, 2297, for quotations of editorials and dispatches to this effect.

²⁷ See J. F. Rippy, "Foreign Markets and the Economic Position of the United States," *South Atlantic Quarterly*, Vol. 34, p. 15.

²⁸ See J. V. Fuller, "The Genesis of the Munitions Traffic," *Jour. of Mod. Hist.*, Vol. 6, p. 280. See also *Report of Senate Committee on Investigation of the Munitions Industry* (74:2, Senate Report, No. 944), Part 5, pp. 25 ff., 59 ff.

²⁹ J. J. Clark, *The Costs of the War to the American People* (New York, 1931).

³⁰ See C. Warren, "Contraband and Neutral Trade," *Proceedings of Academy of Political Science* (1935), p. 189, for a careful summation of profit and loss. The author shows that the net increase of exports to Europe for the first two years of the war was valued at \$1,954,000,000, and that of the gross increase of \$2,593,000,000, a total of \$390,000,000 went to the neutrals.

³¹ Professor Jessup has shown, for instance, that in the period 1911-13 the United States exported only 23.1 per cent of the total imports of Latin America, while the European belligerents exported 59.7 per cent. Had American exports been substituted, there would have been an increase of \$750,000,000 in our foreign trade in that region alone. For the Far East, the increase would have been \$400,000,000. In 1933, only 6.9 per cent of American exports went to South America, while we received 14 per cent of our imports from those countries. For Asia, the percentages were 17.7 and 29.4; for Europe, 50.9 and 31.9. The possibilities of shifts in trade appear large.

time-quota trade restriction.²² And the latter policy, despite many difficulties in domestic administration, not only provides no grounds for political complaint abroad, but affects minimally the national economy. As has been pointed out, the principle was accepted by the Administration as well as by the isolationists.

If there is no necessary relation between a particular interpretation of international law with respect to neutral rights and national interest in terms of trade with belligerents, it is pertinent to note that other interpretations and proposals, some of which were presented to the committees, support the principles embodied in the various bills submitted to Congress. It is out of the many elements that went into the crucible of the 1936 discussion and debate that a new law will be fashioned to give some permanence and consistency to our neutrality policy. Which of those elements are most significant? How may they be combined to create a logical and workable policy?²³

III

It will be well to state at the outset three assumptions on which these considerations are based. First, that any policy pursued by the government will involve costs, individual in origin, but national in incidence—to the extent and through the processes by which individual are converted into general profits and losses. Second, that any policy—whether the existing so-called “laws” of neutrality or their most extreme antithesis—inevitably bears unequally on the belligerents in any given war. (The problem becomes one, therefore, of defining as well as possible what is conceived to be the most advantageous policy from the point of view of national interest, and of defining individual rights and duties in conformity with it.) Third, that the possibility, and even likelihood, of involvement is sufficiently great to make a policy of isolation from economic relations with belligerents relevant to our national interest.

Without attempting to analyze the meaning of national interest in this respect, it is here conceived as involving the non-participation of the United States in any war outside the American hemisphere which is not a concerted attempt, unequivocally so defined by international agreements, to prevent or to end aggression. The Treaty of Paris (and other

²² The domestic effect of an embargo is, of course, unevenly distributed, especially in the agricultural field, as, for instance, cotton. But recent American agricultural policy suggests an increasing emphasis on diversified farming and the equation of production with domestic demand. In the industrial sphere, there is, for most industries, some flexibility, not only in amount, but in type of production.

²³ See W. W. Jennings, “The American Embargo, 1807–1808,” *Univ. of Iowa Studies in the Social Sciences* (1921), No. 1; L. M. Sears, *Jefferson and the Embargo* (Durham, 1922), for an analysis of the balance of forces in the Napoleonic period—and the equilibrium achieved.

agreements to which the United States is not a party) has sufficiently defined aggression, and has made clear the obligations of the signatories.³⁴ In order to accomplish this objective, it is necessary to obviate as many contacts between American citizens as feasible with the least possible disturbance of domestic conditions. How may this be accomplished?

First, should the embargo be mandatory or discretionary? As has been indicated, an application of the most extreme mandatory principle cannot obviate considerable executive discretion. The President's more intimate and continuous acquaintance and concern with foreign affairs equip him to deal with the great variety of possible situations more effectively than any other agency of the government. The extent of his discretion may be limited, as in Section 6 of the Administration bill noted above. Congressional approval of variations from embargoes impartially applied to all belligerents is, however, facilitated if the principle is embodied in the legislation rather than left to the exigencies of particular cases. But this is the most that can reasonably be expected in any permanent measure.

Second, to what should the embargo extend? Two subjects have already been brought within its terms: (1) munitions and (2) loans and credits. War materials—and these will include, practically, whatever is considered contraband by the belligerents—may be treated in any one of three ways: trade to be at the shipper's risk; trade to be restricted to quotas based on normal exports; trade in at least the most significant items, such as cotton, iron, steel, coal, and oil, to be embargoed. There are arguments for each of these policies. The first comes nearest to complete *laissez faire* as to trade (the present legal situation); it has the advantage of flexibility, but the disadvantage of leaving the door open to psychological pressures on the government if and when American property—or life—is injured by belligerent action. The second, as already suggested, creates no international, but will be the source of many domestic complications. For instance, the allocation of quotas to particular producers and shippers, compensation for losses (hypothetical or real) on inexecutable contracts, will be difficult if not impossible to determine.³⁵ The third would provide the best insurance against involvement; its

³⁴ See, for instance, the Argentine Anti-War Treaty already noted, and the Convention Defining Aggression, July 3, 1933.

³⁵ For proposals on this problem, see the draft statute of the National Peace Conference, *op. cit.* There is no reason, except one of expediency, however, for assuming governmental responsibility for losses which in all but the most unusual cases can be attributed not to administration of the law but to the over-zealous pursuit of contracts by individual producers. A system of licenses similar to those issued by the National Munitions Control Board would facilitate regularity of operation of such a provision.

adoption depends on willingness to pay the price—and the possibility of developing inter-neutral trade.³⁶

Third, what other items should be included in a neutrality policy? Existing prescriptions regarding the travel of American citizens in belligerent war zones, regarding the use of American harbors by belligerent submarines, or for exports of prohibited articles in domestic or foreign vessels should be clarified and strengthened. Further, the voyages of American vessels in belligerent war zones should be prohibited; American ports should be closed to armed merchantmen and belligerent aircraft, as well as submarines, if trade is to be allowed on the present (or risk) basis; abuse of the American flag should be stringently punished by penalties against the merchant marine of the offending state. Finally, the National Munitions Control Board should be given separate statutory authority, and its licensing powers should be extended to other items of trade.

Finally, what aspects of general policy should be implemented with the neutrality program outlined above? First, inter-neutral collaboration should be strengthened by conventional agreements. The Argentine Anti-War Treaty of 1933 laid the basis for "a common and solidary attitude" among its signatories as neutrals. The 1936 resolution indicated the determination of the United States to pursue a Pan-American policy as to neutrality. Its proposals at the Buenos Aires conference, as amended in collaboration with Latin American states, are a small but distinct step toward two desirable objectives: closer inter-American collaboration and extra-American extension of the principle of collective neutrality. The implementation of the latter lies in the future. The limited form of the collaboration so far provided for marks, however, a very definite advance over previous inter-American agreements.³⁷ The extension of the principle of collaboration and a solidary policy to the economic sphere is implicit in a comprehensive neutrality program.

Moreover, recent events have pointed to the necessity of a more precise definition of the conditions under which the neutrality program is to become effective. The Italian aggression in Ethiopia, the civil war in Spain, events in other parts of the world, suggest that "a state of war" is too narrow a conception. The United States has itself led the way out of a purely legalistic interpretation of the phrase—evidenced by the

³⁶ It has been pointed out that such a policy might result in increasing armament production and policies of self-sufficiency abroad. See, for instance, A. W. Dulles, "Economic Implications of American Neutrality," *Annals of Amer. Acad.*, Vol. 186, p. 41. But that is not a matter over which the United States has any control, whatever its policy. Present indications do not suggest that the consideration is a material factor in the framing of armaments policies.

³⁷ For texts, see *New York Times*, Dec. 7, 1936, 8:2; Dec. 14, 14:1. In the draft treaty, the 1936 resolution was in effect reproduced.

President's proclamation of October 5, 1935. But there are further precedents, e.g., the resolution of March 14, 1912, regarding the export of munitions to "any American country [in which] conditions of domestic violence exist."

The various resolutions, culminating in that of May 28, 1934, regarding export of munitions to Chaco, and the neutrality resolutions, suggest a new conception more flexible in application than "a state of war." The form of words in the Administration bill (sec. 4a) is as follows: "Whenever during any war in which the United States is neutral, the President shall find that the placing of restrictions on the shipment from the United States to belligerent countries of certain articles or materials used in the manufacture of arms, ammunition, or implements of war, or in the conduct of war, will serve to promote the security and preserve the neutrality of the United States, or to protect the lives and commerce of nationals of the United States, or that to refrain from placing such restrictions would contribute to a prolongation or expansion of the war, he shall so proclaim."³⁸

The extension of this principle to the outbreak of armed conflict in any

³⁸ The delegation of discretion in these or similar words has recently been made the subject of a suit under the Chaco Arms Embargo Resolution of May 28, 1934 (48 Stat. 811). The demurrer to the indictment set up by the defendants was in part based on the contention that the resolution is an unconstitutional delegation in that one basis of the finding set forth in the resolution relates to future contingencies, and is essentially legislative in character. In the district court, this contention was upheld. The definition in the resolution of the finding to be made by the President that an embargo "may contribute to the reestablishment of peace" was found by Judge Byers "not to amount to a sanctioned delegation of power to declare a legislative purpose effective in the event that certain prescribed conditions are found to exist [but] an empowering of the executive to make up the legislative mind as to the future efficacy of the law, as the reason for giving vitality to it." *U. S. v. Curtiss-Wright Export Corporation* (14 Fed. Suppl. 230, 1936). On appeal to the Supreme Court, the decision was reversed. Very broad grounds for the delegation of a wide discretion to the President were established by the Court. First, the nature of foreign relations, requiring secrecy in negotiation, and his "better opportunity of knowing the conditions prevailing in foreign countries . . . especially in time of war . . . [with] his confidential sources of information . . . disclose the unwisdom of requiring Congress in this field of governmental power to lay down narrowly defined standards by which the President is to be governed." In this respect, the difference between domestic and foreign relations was emphasized and this case distinguished from *Panama Refining Co. v. Ryan* (293 U.S. 388). Second, "the principles which justify such legislation find overwhelming support in the unbroken legislative practice which has prevailed almost from the inception of the national government to the present day. A legislative practice such as we have here goes a long way in the direction of proving the presence of unassailable ground for the constitutionality of the practice, to be found in the origin and history of the power involved, or in its nature, or in both combined" (*Ibid.*, Supreme Court, October Term, 1936, No. 98, 57 S. Ct. 216).

area of the world, together with the essential discretion of the executive, as in the earlier resolutions concerning "domestic violence," would seem to provide an adequate definition of the conditions in which neutrality should apply.

There is one issue impending which may cut across the assumptions on which such a policy is based—the emergence of a *bloc* of states intent on pursuing their diplomatic objectives by *coup d'état*, rather than through consultation. In an alignment east or west of us, in which such a contingency becomes of immediate and direct concern to us, neutrality may become irrelevant. But it is well to distinguish the purpose of our entry into any war of ideologies. In the situation suggested, we shall be returning to the principles of 1778, of offensive and defensive alliance, celebrated in the treaty with France. The considerations underlying such a course are different from, not antithetical to, the neutrality program outlined above. It will be well to make certain that involvement in such a war is on grounds, both legal and moral, more unequivocal than in 1914.³⁹

PHILLIPS BRADLEY.

Amherst College.

³⁹ A very considerable body of literature has grown up during the past year or two in this field. The following selective list is indicative of the major trends: E. W. Crecraft, *Freedom of the Seas* (New York, 1935)—isolationist, *laissez-faire* as to neutrality; E. W. Dulles and H. F. Armstrong, *Can We Be Neutral?* (New York, 1936)—trade-at-risk, mild restrictionist; P. C. Jessup, *Neutrality, Today and Tomorrow* (New York, 1936)—coöperationist as to collective security, restrictionist as to trade (includes a useful bibliography); P. Bradley, *Can We Stay Out of War?* (New York, 1936)—coöperationist with reservation, strongly restrictionist as to trade. Besides the articles listed in the foregoing footnotes, see "American Neutrality Reconsidered," *Columbia Law Review*, Vol. 36, p. 105 (legal aspect of embargoes); J. E. Johnsen, *The Neutrality Policy of the United States*, Reference Shelf (1936), No. 7 (references, pro and con, on current issues); "American Neutrality," 15 *Congressional Digest* (1936), No. 1 (factual materials on the history of neutrality legislation); "The Attainment and Maintenance of World Peace," *Annals of Amer. Acad.*, Vol. 186 (economic and political aspects of neutrality and collective security); various articles in Vols. 29 and 30 of *Amer. Jour. Internat. Law* (1935 and 1936).

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

Under appointment by the Department of State, Professor Charles G. Fenwick, of Bryn Mawr College, served as one of the seven delegates of the United States to the Inter-American Conference for the Maintenance of Peace, held at Buenos Aires beginning December 1.

President Harold W. Dodds, of Princeton University, has been appointed general consultant of the inquiry into the character and cost of public education now being carried out by the Board of Regents of the University of the State of New York.

Mr. G. Lyle Belsley, executive director of the Civil Service Assembly of the United States and Canada, is serving as special consultant on personnel matters to the Social Security Board.

Professor Frank G. Bates, of Indiana University, has postponed the leave of absence which he had planned to take during the second semester of the current academic year.

Professor Earl W. Crecraft has been made chairman of a newly created division of social sciences at the University of Akron.

Professor James K. Pollock, of the University of Michigan, has been granted leave of absence for the second semester of the current year.

Professor Edith C. Bramhall, of Colorado College, was elected president of the Colorado-Wyoming Social Science Association at its fall meeting in Denver.

Dr. Julian S. Duncan has been promoted to the rank of associate professor at St. Johns College, Annapolis, Maryland. With the aid of a grant from the Social Science Research Council, he is now completing a study of forest policy.

At the first national conference on educational broadcasting, held at Washington in December, Professor Arthur N. Holcombe, of Harvard University, delivered an address on "Radio Broadcasting as a New Force in American Politics."

Furman University announces the establishment of a department of political science, under the chairmanship of Dr. Nicholas P. Mitchell. Dr. Mitchell was formerly associated with the department of political science at Louisiana State University and at Duke University, and more recently has been acting head of the department of history and government at the University of Richmond.

Professor Pitman B. Potter, of the Institute of Higher International Studies at Geneva, will exchange during the spring and first half of the summer quarter with Professor Quincy Wright, of the University of Chicago. At Geneva, Professor Wright will give a course on international organization and a seminar on the causes of war, and at Chicago Professor Potter will give a course on international organization and a seminar on international administration.

Mr. Raymond T. Nagle recently resigned his position as attorney-general of Montana to become director of the attorneys-general division of the Council of State Governments in Chicago. Mr. Nagle was for four years city attorney of Helena, served three terms in the Montana state legislature, and was secretary to Senator Thomas J. Walsh.

Mr. Charles E. Mills, formerly research secretary to Senator Otis F. Glenn of Illinois, and later research assistant to the executive officer of the Farm Credit Administration, has joined the staff of the Council on State Governments.

Four members of the Chicago group of national organizations of public officials participated in the Institute of Public Administration, held at the University of Alabama December 2 to 4: Carl H. Chatters, executive director, Municipal Finance Officers' Association; Norman Hebden, assistant director, American Public Works Association; Henry F. Hubbard, assistant director, Civil Service Assembly of the United States and Canada; and Lyman S. Moore, assistant director of training, International City Managers' Association.

Dr. Howard P. Jones, secretary of the National Municipal League, will represent the International City Managers' Association on the National Management Council, a group composed of representatives of various management societies. City managers who represent the Association on the Council are Wilder M. Rich, Hackensack, New Jersey, and William A. Miller, Clifton, New Jersey.

James W. Parry, for the past nine years city manager of Birmingham, Michigan, has resigned to become director of a training program for Michigan local government officials, sponsored jointly by the University of Michigan, the Michigan Municipal League, and the State Board for Vocational Education. The training will be taken to officials in the field through short courses, institutes, and zone conferences.

The Chicago Junior Colleges recently conducted a series of lectures in the field of government. Clarence E. Ridley, executive director of the International City Managers' Association, talked to five different groups on "Evolving Trends in Local Government"; Henry W. Toll, director of

the Council of State Governments, on "Work and Problems of State Legislatures"; and Albert Lepawsky, assistant director of the Public Administration Clearing House, on "Metropolitan Regions."

Dr. Toyokichi Iyenaga, professor of political science at Waseda University from 1890 to 1895, secretary in the Japanese Department of Foreign Affairs from 1895 to 1898, commissioner of the Formosan government to India, Persia, Turkey, and China in 1898-1899, and professorial lecturer on political science at the University of Chicago from 1901 until 1920, died at his home near Oneida, New York, on December 29. Dr. Iyenaga was a graduate of Oberlin College and received his doctor's degree at the Johns Hopkins University in 1890. He had lived in retirement during the past sixteen years.

Dr. Albrecht Mendelssohn-Bartholdy, founder of the Hamburg Institute for International Affairs and editor of the German documents on the origin of the World War, died on November 27 at Balliol College, Oxford, where he had been senior research fellow since 1934. Dr. Mendelssohn-Bartholdy had been successively professor of international law at Leipzig University, professor of civil law and the law of procedure at Wuerzburg University, and professor of international law at Hamburg University, and he had edited *Handbuch der Politik* (1921-1933) and *Amerika-Post* (1929-1933). His principal published works included *Imperium des Richters*, *Buerkertugenden*, and *The European Situation*. Dr. Mendelssohn-Bartholdy was well known in the United States, where he had travelled and lectured extensively.

The fifth annual meeting of the Tax Policy League was held in Chicago on December 28-29. Four sessions were devoted, respectively, to "Social Security Taxes," "Should Business be Taxed?," "How Business is Taxed," and "Taxation of Undistributed Profits." Professor Thomas H. Reed, consultant, National Municipal League, was chairman of the program committee. The League's monthly bulletin, *Taxbits*, will hereafter appear under the title *Tax Policy*. The November issue contained, among other things, a convenient summary of the results of popular votes on tax proposals in the states at the elections of November 3.

The Third Annual Conference on Government and Business in New Mexico, held at the University of New Mexico on December 4-5, had for its general theme Government Problems in New Mexico. Features of the program included addresses by Professor John P. Senning, of the University of Nebraska, on Nebraska's experience in setting up a one-house legislature; by Congressman Maury Maverick, of Texas, on neutrality and on the Southwest in national affairs; and by Professor A. S. White, of the University of New Mexico, on the need for a state research bureau on governmental problems.

The ninth annual session of the Southern Political Science Association was held in Decatur and Atlanta, Georgia, on November 5-7. The principal topics discussed were the Hull reciprocity treaties, primary elections in the South, civic education in the South, and at sessions held jointly with the Southern Economic Association, problems of taxation and financial administration, consequences of the New Deal, and liberalism in the South. At the annual business meeting, the following officers were elected for 1937; president, Frank W. Prescott, University of Chattanooga; first vice-president, Robert R. Wilson, Duke University; second vice-president, Manning J. Dauer, University of Florida; recording secretary, W. V. Holloway, Tulane University; corresponding secretary and treasurer, Hubert Searcy, Birmingham-Southern College.

Thirty-second Annual Meeting of the American Political Science Association. For the second time in three years, the American Political Science Association held its annual meeting in Chicago, December 28-30. The registered attendance was decidedly the largest in the Association's history—a total of 403, as compared with 315 at Atlanta in 1935, 310 at Chicago in 1934, and 360 at Philadelphia in 1933. Other organizations meeting in Chicago simultaneously included the American Economic Association, the American Statistical Association, the American Sociological Society, the American Association for Labor Legislation, and the Association of American Law Schools. Following the practice of recent years, the program of the Political Science Association was devoted largely to section and round-table meetings. In full, it was as follows:

Monday Noon, December 28

SUBSCRIPTION LUNCHEON

Presiding Officer: Frank G. Bates, Indiana University.

Topic: "Recent Progress in Planning in the United States."

Speaker: Charles E. Merriam, University of Chicago.

Monday Afternoon, December 28

SECTIONS:

(1) "THE PROS AND CONS OF JUDICIAL REVIEW"

Chairman: Arthur N. Holcombe, Harvard University

Discussion leaders: Max Lerner, Editor, *The Nation*, New York City; Walton H. Hamilton, Director, Bureau of Statistics, Social Security Board; Arthur A. Ballantine, New York City; David J. Lewis, Member of Congress, Washington, D. C.; Oliver P. Field, University of Minnesota.

(2) "THE GOOD NEIGHBOR POLICY"

Chairman: J. Fred Rippy, University of Chicago

Discussion leaders: Lawrence F. Hill, Ohio State University; James W. Garner, University of Illinois; Quincy Wright, University of Chicago; Chester Lloyd Jones, University of Wisconsin.

(3) "ADMINISTRATION OF NEW GOVERNMENTAL ACTIVITIES"

Chairman: Louis Brownlow, Director, Public Administration Clearing House

- (a) "The Developing Administration of Social Security," Charles McKinley, Reed College.
- (b) "The Federal Administration of Public Relief Works," Arthur W. Macmahon, Columbia University.
- (c) "New Developments in Public Administration by the T.V.A.," John B. Blandford, Jr., Tennessee Valley Authority, Knoxville, Tenn.

Monday Evening, December 28

GENERAL SESSION

Presiding Officer: Louis Brownlow, Director, Public Administration Clearing House.

Topic: "The University and Public Affairs."

- (a) "Education for Public Service," Otis T. Wingo, Jr., National Institute of Public Affairs.
- (b) "The University and Adult Political Education," Thomas H. Reed, National Municipal League.

Tuesday Morning, December 29

ROUND TABLES

(1) "UNIVERSITY COURSES OF TRAINING FOR THE PUBLIC SERVICE"

Chairman: William Anderson, University of Minnesota

Discussion leaders: Leonard D. White, U. S. Civil Service Commission; Morris B. Lambie, Harvard University; Luther H. Gulick, Institute of Governmental Research; Thomas H. Reed, National Municipal League; K. C. Leebrick, Syracuse University; Lloyd M. Short, University of Minnesota; William S. Carpenter, Princeton University.

(2) "THE PRESS AND PUBLIC AFFAIRS"

Chairman: Philip S. Broughton, Washington, D. C.

Discussion leaders: H. Schuyler Foster, Jr., Ohio State University; Don Stevens, formerly National Guild Officer; Harwood L. Childs, Princeton University; Lawrence Eager, Dartmouth College; Thurman W. Arnold, Yale University; Leo C. Rosten, Washington, D. C.; W. J. Couper, Washington, D. C.

(3) "REORGANIZATION OF COUNTY GOVERNMENT"

Chairman: Earl L. Shoup, Western Reserve University

Discussion leaders: Charles M. Kneier, University of Illinois; Kirk H. Porter, State University of Iowa; J. W. Manning, University of Kentucky; Edwin A. Cottrell, Leland Stanford University; George W. Spicer, University of Virginia; Orren C. Hormell, Bowdoin College; Roderick L. Carleton, Louisiana State University; John P. Senning, University of Nebraska.

(4) "INTERNATIONAL ASPECTS OF RAW MATERIAL SELF-SUFFICIENCY"

Chairman: Brooks Emeny, Foreign Affairs Council

Discussion leaders: Walter H. C. Laves, League of Nations Association; S. Shepard Jones, Harvard University; Quincy Wright, University of Chicago; William P. Maddox, Princeton University; Kenneth Colegrove, Northwestern University; Harold Tobin, Dartmouth College; R. R. Wilson, Duke University;

F. A. Middlebush, University of Missouri; Royden L. Dangerfield, University of Oklahoma; Ralph Norem, Superior State Teachers' College; A. Vandembosch, University of Kentucky.

(5) "POLITICAL PARTIES"

Chairman: Thomas S. Barclay, Stanford University

- (a) "The Presidential Primary: A Reappraisal," Louise Overacker, Wellesley College.
- (b) "Propaganda Technique in the 1936 Presidential Campaign," Ralph D. Casey, University of Minnesota.
- (c) "New Developments in Political Strategy," Roy V. Peel, New York University.

Discussion leaders: Clarence A. Berdahl, University of Illinois; James K. Pollock, University of Michigan; Arthur W. Macmahon, Columbia University; Harold F. Gosnell, University of Chicago; Peter H. Odegard, Ohio State University; Joseph R. Starr, University of Minnesota; E. Pendleton Herring, Harvard University; Kirk H. Porter, State University of Iowa; Finla G. Crawford, Syracuse University; Schuyler C. Wallace, Columbia University; Edward M. Sait, Pomona College; Harold D. Lasswell, University of Chicago; J. T. Salter, University of Wisconsin.

(6) "THE LOSS OF NATIONALITY"*

Chairman: Rinehart J. Swenson, New York University

Discussion leaders: Richard W. Flournoy, U. S. Department of State; Henry B. Hazard, U. S. Immigration and Naturalization Service; Donald Young, University of Pennsylvania; S. P. Breckinridge, University of Chicago; Catheryn Seckler-Hudson, American University; Philip C. Jessup, Columbia University; Ruth C. Bernstein, National Council of Naturalization and Citizenship.

Tuesday Noon, December 29

SUBSCRIPTION LUNCHEON

Presiding officer: Charles West, Under Secretary of the Interior.

Topic: "Governmental Organization and Crime Control."

Speaker: Honorable Justin Miller, U. S. Department of Justice.

Tuesday Afternoon, December 29

ANNUAL BUSINESS MEETING AND REPORT OF OFFICERS AND COMMITTEES

Presiding officer: Arthur N. Holcombe, Harvard University.

Tuesday Evening, December 29

PRESIDENTIAL ADDRESSES

(Joint meeting with the American Economic Association, the American Sociological Society, the American Statistical Association, and the American Association for Labor Legislation.)

Presiding officer: Walter F. Willcox, Cornell University.

Speakers: Alvin S. Johnson, President, American Economic Association; Arthur N. Holcombe, President, American Political Science Association; Joseph S. Davis, President, American Statistical Association; Henry Fairchild, President, American Sociological Society; Joseph P. Chamberlain, President, American Association for Labor Legislation.

* In cooperation with the National Council for Naturalization and Citizenship.

Wednesday Morning, December 30

ROUND TABLES

(7) "POLITICAL LIBERTY TODAY—IS IT BEING RESTRICTED OR ENLARGED BY ECONOMIC REGULATION?"

Chairman: Francis W. Coker, Yale University

Discussion leaders: Francis G. Wilson, University of Washington; T. V. Smith, University of Chicago; Max Shepard, Cornell University; Carlton C. Rodee, University of Southern California; Hugh L. Elsbree, Dartmouth College.

(8) "REGIONALISM IN GOVERNMENTAL PLANNING AND ADMINISTRATION"

Chairman: John M. Gaus, University of Wisconsin

Discussion leaders: William Anderson, University of Minnesota; Charles Ascher, Social Science Research Council; George Benson, University of Michigan; Phillips Bradley, Amherst College; Frederick Gutheim, author of various studies on regionalism; Charles McKinley, Reed College; Howard Odum, University of North Carolina; John C. Russell, Syracuse University.

(9) "AN APPRAISAL OF STATE ADMINISTRATIVE REORGANIZATION"

Chairman: Frank M. Stewart, University of California at Los Angeles

Discussion leaders: Finla G. Crawford, Syracuse University; Lloyd M. Short, University of Minnesota; H. C. Nixon, Tulane University; W. Brooke Graves, Temple University; Donald C. Stone, Public Administration Service; J. Alton Burdine, University of Texas; Harvey Walker, Ohio State University; George C. S. Benson, University of Michigan; V. O. Key, Social Science Research Council; William H. Edwards, New Mexico State College; George W. Spicer, University of Virginia; Charles W. Shull, Wayne University; Spencer D. Parratt, Syracuse University; Edith Bramhall, Colorado College; Harold Dorr, University of Michigan; Edwin Cottrell, Stanford University.

(10) "AFTER THE NEUTRALITY LEGISLATION—WHAT?"

Chairman: Quincy Wright, University of Chicago

Discussion leaders: Clarence Berdahl, University of Illinois; Frederick L. Schuman, University of Chicago; Walter H. C. Laves, League of Nations Association; Charles G. Fenwick, Bryn Mawr College; Honorable Elbert D. Thomas, United States Senate; J. W. Garner, University of Illinois; Raymond L. Buell, Foreign Policy Association.

(11) "DICTATORSHIP AND CONSTITUTIONALISM IN EUROPEAN COUNTRIES"

Chairman: Roger H. Wells, Bryn Mawr College

Discussion leaders: Karl Loewenstein, Amherst College; Harold C. Deutsch, University of Minnesota; H. Arthur Steiner, University of California at L. A.; Fritz Morstein Marx, Harvard University.

Wednesday Noon, December 30

JOINT SUBSCRIPTION LUNCHEON

(With the American Association for Labor Legislation)

Presiding Officer: Arthur N. Holcombe, Harvard University.

Topic: "Social Welfare and the Constitution."

Speakers: Lloyd K. Garrison, University of Wisconsin; Donald Richberg, Washington, D. C.

The Secretary-Treasurer reported a total membership of 1,922 (the largest in the history of the Association), classified as follows: life members, 47; sustaining members, 15; annual and associate members, 1,860. During the year, 203 new members were gained and 135 members lost—a net gain of 68 as compared with 53 in the preceding year. The financial report of the Secretary-Treasurer for the year showed total receipts of \$9,330.27 and expenditures of \$9,265.19, and a budget for 1937 was adopted estimating receipts at \$9,390.00 and expenditures at \$9,690.00.

At the annual business meeting, officers for 1937 were elected as follows: president, Thomas Reed Powell, Harvard Law School; first vice-president, William E. Mosher, Syracuse University; second vice-president, Louis Brownlow, Public Administration Clearing House; third vice-president, Russell M. Story, Pomona College; secretary-treasurer, Kenneth Colegrove, Northwestern University; members of the Executive Council for the term 1937-39, A. B. Butts, University of Mississippi; John P. Comer, Williams College; Arthur W. Macmahon, Columbia University; Roscoe C. Martin, University of Texas; and James K. Pollock, University of Michigan. A special vote of thanks was tendered the retiring secretary-treasurer, Clyde L. King, for seven years of faithful and arduous service to the Association.

The report of the Managing Editor of the *REVIEW* analyzed the contents of Volume XXX (concluded with the December issue) and of the five volumes for 1932-36 inclusive; commented at some length on problems connected with obtaining and selecting materials for publication; summarized some results of a recent inquiry among members concerning different aspects of *REVIEW* policy; requested authorization of editorial expenditures in the same amounts as in the preceding year; and invited suggestions and coöperation from members. On his recommendation, William Anderson, University of Minnesota, and Robert E. Cushman, Cornell University, were reelected, and Marshall E. Dimock, University of Chicago, James Hart, University of Virginia, and Alpheus T. Mason, Princeton University, were newly elected, to membership in the Board of Editors for the customary two-year term.

On behalf of the reconstituted Committee on Policy, Arthur N. Holcombe, chairman, submitted the report for 1936 printed below.

For the Committee on Civic Education by Radio, Thomas H. Reed, chairman, called attention to, and in part summarized, the recently published report, *Four Years of Network Broadcasting* (preprinted from *Radio and Education*, University of Chicago Press, 1936). It was explained that although obstacles of various sorts had kept the Committee off the air since June, consideration was being given a proposed experiment with electrically transcribed educational programs, to be booked directly with individual radio stations irrespective of network affiliation.

Among other reports received and filed were those of (1) William Anderson, as representative of the Association in the Social Science Research Council, briefly reviewing that organization's activities, and (2) Frederic A. Ogg, as representative in the American Council of Learned Societies, calling attention to a fund for aid to publication of scholarly monographs and mentioning a number of the Council's other undertakings.

In accordance with earlier decisions, it was announced that the next annual meeting of the Association will be held at Philadelphia, in December, 1937, in pursuance of a project for the assembling of all major national historical and social science organizations in that city as a feature of the observance of the one hundred fiftieth anniversary of the framing of the national Constitution.—F.A.O.

Report of the Committee on Policy for 1936. In pursuance of the decision of the American Political Science Association at its annual meeting at Atlanta in December, 1935, to reorganize the Committee on Policy in order to reduce its size and to coördinate its work more closely with that of the Executive Council, it was decided to fix the size of the new committee at seven members instead of sixteen and to make such appointments as would bring it about that all members of the Committee on Policy would also be members of the Executive Council of the Association. To this end, the president of the Association appointed three regular members of the Executive Council to the reorganized Committee—one from each of the three classes of councilors—together with the first vice-president of the Association, the secretary-treasurer, and the retiring president. The incoming president took on the duties of chairman of the Committee, thus completing its membership.

The Committee held two meetings during the year. The first took place on February 29 at Philadelphia. The Committee decided to continue the program of political research and political education, but to reduce the rate of expenditure in order to conserve the funds at the Committee's disposal. In pursuance of this policy, the publication of a *Student's Guide* edited by the Sub-Committee on Publication, was financed, and several regional conferences arranged under the supervision of the Sub-Committee on Political Education were also financed in accordance with the established practice. These meetings seem to have been particularly successful, as might perhaps have been expected in view of the experience of Professor Cullen B. Gosnell, chairman of the Sub-Committee, gained in previous years.

The second meeting of the Committee on Policy was held at Washington, D. C., on May 22 in connection with a conference called by Dr. J. W. Studebaker, United States commissioner of education. The Committee

discussed plans for the 1937 meeting of the American Political Science Association at Philadelphia in connection with the sesquicentennial of the framing of the Constitution of the United States, and authorized Professor F. W. Coker, of Yale University, to take charge of the preliminary preparation of the program for that meeting.

The Committee also discussed a project which had previously been presented to it at the February meeting by the chairman for an investigation of academic freedom and the protection of the civil rights of teachers in the social sciences. It had been suggested that a commission of inquiry like those established some two years ago to investigate *Public Personnel Problems* and *International Economic Policies* should be created for the purpose of investigating and reporting upon academic freedom and the civil rights of social science teachers. The Committee authorized the chairman to get in touch with officers of other professional associations in the field of the social sciences in order to prepare a project for presentation to the Rockefeller Foundation at as early a date as possible.

The chairman communicated with the presidents of the American Historical Association and the American Economic Association and found them sympathetic with the purpose of the project and willing to cooperate. He also got in touch with Dr. George F. Zook, president of the American Council on Education, with a view to coöperating with organizations representing other bodies of teachers. It appeared that the American Council on Education and other professional associations of American teachers had already been considering a project for the same purpose, and it appeared desirable to revise the plans of the Committee on Policy in order to prepare for the submission of a project more broadly conceived than at first. Negotiations with Dr. Zook and other leading educators have proceeded during the latter part of the year.

Preliminary discussions of a possible project with representatives of the Rockefeller Foundation indicate that the project should be prepared on a very broad basis, and that sufficient time should be devoted to the preliminary inquiries to insure that the project, when prepared, shall be both comprehensive and sound.—ARTHUR N. HOLCOMBE, *Chairman*.

BOOK REVIEWS AND NOTICES

The American Political Scene. EDITED BY EDWARD B. LOGAN. (New York and London: Harper and Brothers. 1936. Pp. viii, 264.)

This book does not pretend to be a systematic treatise. It analyzes certain fundamental phases of American politics. In successive chapters, A. N. Holcombe examines the present-day characteristics of parties; E. B. Logan, party organization; J. T. Salter, the politician and the voter; H. R. Bruce, presidential campaigns; J. K. Pollock, the use of money in elections; and H. L. Childs, pressure groups and propaganda. Although the chapters are uneven in quality and do not everywhere justify the claim of the preface to "a great deal of research," their value, in the aggregate, is incontestable. They should interest both the student of politics and the general reader.

Professor Holcombe makes the outstanding contribution. The insight, originality, and control of data that marked *The Political Parties of Today* are equally apparent here. Making good use of election statistics, he derives from them a durable pattern of behavior on the part of the electorate and a key to the real character of the major parties. Divergent sectional interests provide the key. But it is necessary to look within the sections and observe the popular attitude in individual states. On the basis of the vote cast in the four presidential elections preceding 1936, Professor Holcombe classifies the states in five groups according to their deviation from the average percentage of the national vote for the two parties; and from this classification he makes it clear what the strategy of the leaders must be. He turns then to the forces operating within the states, particularly to the division between country and city. Maps and tables help greatly in clarifying the whole discussion. It should be added that some sage comments are made upon the possible realignment of parties.

Professor Pollock deals competently with campaign funds and corrupt practice legislation. Professor Salter has portrayed the politician with a deft hand. He seems to have become acquainted with the type less through the observations of others than through personal study of individual cases. His language is often arresting and felicitous. The politician must "be able to look at life exactly as it is, and without a shudder." He is "rigorously contemporaneous" and distinguished by not breaking his word. His strength "comes from the support of concrete individuals whose specific wants he has satisfied, and not from an anonymous public." He "must identify himself with some spot on the earth's surface. He must be one who is here today and here tomorrow too." No doubt Professor Childs has cultivated pressure groups with equal assiduity. The result takes shape, however, in a somewhat dreary succession of truisms and

commonplaces, dressed out in a jargon or patter of "pressure resources," "objective indices," "opinion cohesion," "parallelogram of forces," and so on. He has hopes that, by means of the parallelogram, significant changes in public opinion can eventually be forecast. He might profit by reading Hobson's appraisal of thaumaturgic terminology as sometimes used in the social sciences.

A little editing might have saved the book from many lapses in scholarship. Each writer has his own system of footnotes. While the worst eccentricities occur with regard to magazine articles, some being quite unpardonable, two writers fail to give the date or edition of books; and others give wrong dates. Professor Logan even gives wrong pages, and, in the case of Ostrogorski, the wrong title as well. He makes strange misstatements that indicate little disposition to do "a great deal of research." Thus, he asserts that "many" senators and representatives, as well as "a large number" of state chairmen, serve on the national committees. The actual figures, early this year, showed a very different situation. The Democratic committee contained five senators, one representative, and no state chairman; the Republican committee contained only one in each category. A footnote, referring to an absurd generalization by Frank R. Kent, makes matters still worse. Professor Bruce betrays a similar weakness. If, for example, he had been familiar with the actual proceedings of national conventions, he would have escaped serious errors regarding the report of the committee on credentials.

Taken as a whole, the book has great merits. These so far outweigh its defects as to suggest the desirability of an immediate revision.

• EDWARD M. SAIT.

Pomona College.

After the New Deal, What? By NORMAN THOMAS. (New York: The Macmillan Company. 1936. Pp. ix, 233.)

Even though the election upset many of his observations on the New Deal, Mr. Thomas would be the first to say that the unprecedented and unexpected Democratic landslide does not change the major thesis of his book. "The New Deal as it was, and any successor to it which President Roosevelt may create, will be expressions not of socialism but of capitalism." But capitalism, argues Mr. Thomas, cannot meet the demands of modern times. Economic catastrophe or war is inherent in the system. Even if capitalism could avoid such calamities, its own internal contradictions prevent it from realizing the material abundance made possible by modern technology. Capitalism is an individualistic economy geared to a day when the scarcity of goods was the major problem. How can a system requiring a scarcity of goods to keep it going ever produce abun-

dance? Power-driven machinery today presages potential plenty (an "inescapable fact of American life which will influence every future development") and makes production a social or community operation which can find proper expression only in a collective economy. Capitalism as an economic system, together with much of its superstructure of political and social institutions, is outmoded.

In such a situation, the only terms on which capitalism can live are the terms on which it lives under fascism in much of Europe. And this is the probable answer to the question posed in the title of the book: "After the New Deal: Fascism." The occasion for its appearance will be a new crisis either of economic collapse or war. One or the other—perhaps both—seems inevitable. American fascism will be state capitalism, employing some sort of planned economy, requiring an immense degree of national control and national ownership, and will have the objective of saving the status of the middle class and private profit system. It will be strongly nationalistic. There will be the usual brutality.

But such an outcome need not be inevitable if only there is a concerted effort to build the coöperative commonwealth of socialism advanced and explained in this book. Dynamic forces tending in this direction are the consumers coöperative movement, the labor union movement, particularly the C.I.O., and their possible coöperation with farmers in a farmer-labor party able to see the real issue, willing to accept the challenge of the times, and determined to effect fundamental change.

Admirable as a campaign document, this book merely repeats what is already familiar. The world is urgently in need of less frequent publications and much more reflective thinking.

GEORGE H. E. SMITH.

Yale University.

Public Personnel Administration. BY WILLIAM E. MOSHER AND J. DONALD KINGSLEY. (New York: Harper and Brothers. 1936. Pp. xiii, 588.)

The Frontiers of Public Administration. BY LEONARD D. WHITE, JOHN M. GAUS, AND MARSHALL E. DIMOCK. (Chicago: University of Chicago Press. 1936. Pp. viii, 146.)

In *Public Personnel Administration*, William E. Mosher and J. Donald Kingsley have supplied university teachers of public administration with a comprehensive text-book on governmental personnel. Frankly patterned after the leading works on private personnel management, it treats practically every aspect of the subject. Despite the fact that the treatment is as a rule brief on any given topic, the scope of the book is so wide that the main text runs to 553 fairly large, closely printed pages. It is based mainly on a comprehensive review of the existing literature, from

which it quotes freely, often reproducing statistics, forms, regulations, and so on. Only occasionally do the authors present the results of their own original studies or experiences, and they are not much given to expressing their own views on controversial matters. Rather, they expound more or less accepted doctrine.

The horn of the dilemma chosen by the authors is to present under a given topic what they regard as the most significant material from the national, state, or municipal fields, and from foreign and private experience as well. This method does not give a complete or well-rounded picture of any one personnel system. Some of the criticisms and comments applicable to the situation in general, or on the average, are not applicable to certain jurisdictions. Probably the federal system and that of the most progressive states are on the whole better than the student will gather from this text. Some teachers may prefer to give a reasonably thorough treatment of one system, introducing the others on a comparative basis. Our federal form of government, with its forty-eight states and thousands of local governments, makes the task of authors who would be comprehensive nothing short of monumental. The present authors have done well with it.

Leonard D. White, John M. Gaus, and Marshall E. Dimock were associated for a time in teaching and research in public administration at the University of Chicago. Out of their discussions of their work and problems grew the series of seven essays now published in a small volume entitled *The Frontiers of Public Administration*. White contributes "The Meaning of Principles in Public Administration"; Gaus, "The Responsibility of Public Administration," "A Theory of Organization in Public Administration," and "American Society and Public Administration"; and Dimock, "The Meaning and Scope of Public Administration," "The Role of Discretion in Modern Administration," and "The Criteria and Objectives of Public Administration."

"Having considered . . . several points of view, namely, public administration as law, as institution, as experience, as theory and invention, and as problem and relationship . . .," Dimock pulls together the various emphases and formulates the definition: "Public administration includes the problems, powers, organization, and methods of management employed in enforcing the law and in discharging governmental responsibilities." The reviewer regards this definition as reasonably comprehensive, because the problems of government and governmental responsibilities have in our modern world an almost all-embracing sweep across the fields of human knowledge and interest. All three of the writers are far away from those who consider public administration as a narrow and specialized field.

The essays are in the main philosophical. Not only have the writers

been reading, teaching, and conducting research in their field, but, more important, they have been thinking about the boundaries of it—what is within the boundaries, what it all has to do with the life we now lead, and more especially the future which we face. They draw from the rich background of their studies and observations for illustrations and examples, but never do they merely describe or attempt to give the readers only the facts in the case.

Throughout the essays runs the conviction that the trend leading toward more social control, and hence more organization and administration, has by no means run its course. The rôle of public administration will be greater in the future. The attitude of the public toward government is unquestionably changing. What is needed is better understanding of the nature of the problems involved and of the extent to which old ideas and prejudices impede their solution. These essays are a contribution toward this better understanding.

LEWIS MERIAM.

The Brookings Institution.

National Taxation of State Instrumentalities. BY ALDEN L. POWELL. Illinois Studies in the Social Sciences, Vol. XX, No. 4. (Urbana, Ill.: University of Illinois. 1936. Pp. 166.)

For those interested in federal-state relationships, and for others interested in constitutional adaptation by judicial process, this monograph is of considerable interest. The study presents the legal history of the rule in American constitutional practice that the governmental instrumentalities of states and their political subdivisions are generally immune from taxation by the national government.

The book divides naturally into two parts. Following the introduction, five chapters deal, in order, with national stamp tax laws and state instrumentalities, national taxation of state officers and employees, national taxation of the obligations of states and their political subdivisions, national taxation of non-governmental, proprietary agencies of the states and their political subdivisions, and national taxation of state educational institutions. Factual data gleaned from the statutes, administrative rulings, and court decisions are marshalled and interpreted with respect to each division. Part II is a substantial section in which the author interprets the factual data, illustrates the confusion in court decisions, summarizes the present situation, and suggests means for clarification of the rules governing state immunity from national taxation.

The study indicates that the Supreme Court has tended to adhere too slavishly to the rule of *stare decisis* in instrumentality cases. In those cases in which the Court has refused to extend immunity to state agencies, the

decisions show that it gave more attention to the probable effect of the tax: whether it would prove burdensome to state agencies or, on the other hand, whether extension of immunity might seriously burden the revenue demands of the national government.

It is suggested that the pragmatic attitude is the reasonable approach to a solution of all controversies involving the tax liability of state agencies. Dr. Powell holds that the Supreme Court should reconsider its earlier decisions in this field of constitutional law, especially *Collector v. Day* and *Pollock v. Farmers' Loan and Trust Co.*, and determine whether the changed political and economic conditions of modern times still warrant the exemption from national taxation of salaries of state and local officers and income derived from state and local securities. Since the rule of immunity of state and local agencies from national taxation rests entirely on judicial interpretation of the Constitution, and is not expressly stipulated in the instrument, Mr. Powell's position is well taken. He further suggests that "where the question presented involves a point of constitutional law, *stare decisis* should not apply at all, because the Constitution is the supreme law of the land, and whenever judges believe their previous decisions to be in error they should enforce the constitutions and not the decisions."

The study demonstrates that the immunity of state instrumentalities from national taxation is being whittled away, but that this is not being done in accordance with consistently applied principles. Immunity no longer exists with respect to proprietary functions; it no longer exists when it seems to conflict with the powers of Congress other than the revenue power; nor does it exist when the Court finds that the national revenue power itself is seriously burdened.

In view of the contradictions in the decisions handed down by the Supreme Court in this field, and in view of the confusion resulting from such contradictions, Dr. Powell's suggestion that the Court reconsider the whole question as a new issue is sound. The whole subject is handled admirably. The text is fully documented and an extensive, well organized bibliography is included.

IVAN L. POLLOCK.

State University of Iowa.

Taxation and Public Policy. BY PAUL STUDENSKI AND OTHERS. (New York: Richard R. Smith. 1936. Pp. 267.)

Introduction to Governmental Accounting. BY LLOYD MOREY. Second Edition. (New York: John Wiley and Sons. 1936. Pp. xvi, 318.)

Taxation and Public Policy is a discussion of current problems of American and European public finance. Dr. Paul Studenski edited the volume

and contributed three of the twelve chapters. Other contributors include: A. E. Buck, "Public Budgeting"; F. L. Bird, "Municipal Credit"; J. K. Norton, "Educational Finance"; P. H. Cornick, "Local Taxation"; M. S. Kendrick, "State Finance"; W. Withers, "Federal Finance"; C. Heer, "Coördination of Finance"; G. Colm, "European Finance"; and H. Dalton, "Who Pays for War." Each writer has admirably summarized the problems in his field. Interest centers upon the forecast of national tax policy in the final chapter. Should not this chapter have been definitely related to the broad foundation furnished by the various contributors? An ardent advocate of taxation as a means of social reconstruction and peaceful establishment of a social service state (p. 177), Dr. Studenski suggests (a) nationalization of the munitions industry, (b) repeal of tax exemption for government bonds, (c) reorganization of local finance and administration, (d) coördination of federal, state, and local finance, (e) imposition of deflationary taxes at the first sign of inflation, (f) steeply graduated income taxes, together with the confiscation of inheritances in excess of five million dollars (p. 172), (g) use of sales taxes as instruments of social control, (h) government programs for capital outlays covering five- to ten-year periods, (i) continuation as a permanent policy of government expenditures for cheaper electric power, housing, education, health, and social security. No effort was made to compare this comprehensive program with foreign governmental policies, nor to integrate it with earlier American reforms in periods of labor or popular unrest. The effects upon security of employment and the business community are not indicated. Appendix C contains sixty-eight pages of testimony from U. S. Senate committee hearings, August, 1935. The valuable qualities of the volume are best seen in its authoritative summary of present and future public fiscal problems.

Introduction to Governmental Accounting, by Dr. Lloyd Morey, is a thoroughly revised edition of a pioneer work in this field. Since the publication of the first edition in 1927 (reviewed in this REVIEW, Vol. 22, p. 793), notable changes have occurred in the treatment of governmental accounts. The new edition presents improved methods by which public financial transactions are planned and recorded. It is intended as a textbook for students and as a manual for public officials. A new chapter on accounting for publicly owned utilities has been included. Of interest to teachers are sixty-three pages of problems. Clarity of statement and logical arrangement of materials continue this book as an outstanding text on fundamental principles in the public accounting field.

EDWARD W. CARTER.

University of Pennsylvania.

Administration of Workmen's Compensation. BY WALTER F. DODD. (New York: The Commonwealth Fund. 1936. Pp. xviii, 845.)

Under the auspices of its Legal Research Committee, the Commonwealth Fund of New York City has aided in the preparation of another thorough and penetrating study in the field of administrative law.¹ Investigations sponsored by the Committee and carried on for a period of six years by Dr. Walter F. Dodd and a staff of assistants have resulted in the first comprehensive analysis of the various types of statutory provisions in federal and state workmen's compensation laws in the United States, with a discussion of the issues and problems involved in the administration of these acts.

Though the main purpose of the compensation acts, i.e., to secure direct and efficient settlement of claims for industrial accidents with a minimum of expense and delay, has to a considerable degree been secured in all but a few states, it is apparent from the data presented that much remains to be accomplished to obtain a satisfactory compensation system. Court administration of workmen's compensation laws has been found, as a rule, inefficient and wasteful. The agreement or direct settlement plan used in many states to handle a large part of compensation claims results, on the other hand, in frequent bargaining between insurance companies and claimants and the acceptance of inadequate awards. Only when a state provides for a special board or commission charged with the duty of administering workmen's compensation laws and a careful supervision is maintained by such a board over the entire process of the settlement of claims are the purposes of the act effectively carried out.

Despite all of the efforts to attain simplified procedure in the trial of contested cases, Dr. Dodd observes that the courts, through the practice of reviewing decisions, have in many states maintained the dominance of legal procedure, with many of its delays, technicalities, and inordinate costs. And the persistent efforts to make the findings of fact of the compensation boards final have been to a considerable degree thwarted by the attitude of the justices in insisting that a determination of the law of the case necessarily requires an examination of the evidence, and hence a review of the facts, so far as they are contained in the record. The prevalence of court review of compensation cases, particularly in certain states, along with the tendency to follow common law rules of evidence and procedure, accounts in large part for the tendency of claimants to retain attorneys to represent them in the trial of compensation cases, thus encouraging forms of litigious procedure which most of the compensation acts have tried to prevent.

¹ Others include the volumes of Henderson on the Federal Trade Commission and Sharfman on the Interstate Commerce Commission.

As thorough and comprehensive as this study is, it has certain defects which detract from its serviceableness, especially so far as the ways and methods for the improvement of industrial accident legislation and administration are concerned. Much of the detail of statutory provisions and administrative procedure should have been omitted or presented in condensed form in order to bring to the forefront the consideration of problems of legislation and of administration. Administrative and legislative practices regarding workmen's compensation in foreign countries, and especially the successful type of administration in some of the Canadian provinces, deserved more space and attention. It seems to be taken for granted that many of the practices which have been formalized in the American system of administration are subject only to minor modifications and amendments, when a more thorough revision along certain lines appears urgent. Thus the increasing tendency of the courts to review accident cases, with the consequent formalization of compensation procedure as well as the preying of a discredited element of the legal profession upon the credulity and helplessness of claimants or their dependents, is treated as an inevitable consequence of the administration of justice according to common law standards.

Despite the failure to treat the subject as critically and constructively as many may wish, the outstanding evils in the administration of workmen's compensation are dealt with and many suggestions are made for securing more effective laws and administrative methods. All who are interested in the issues and problems of workmen's compensation legislation will find this study indispensable, and the author as well as those who coöperated with him are to be commended for the ground-breaking work which the volume represents.

CHARLES GROVE HAINES.

*University of California at
Los Angeles.*

The Police and Modern Society. BY AUGUST VOLLMER. (Berkeley, California: University of California Press. 1936. Pp. 253.)

Years before American criminologists and police administrators were discussing the really fundamental issues involved in an effective reform of the administration of criminal justice, August Vollmer, with the fearlessness and vision of the pioneer, was calling attention to basic issues. What he writes in the little volume under review has the true ring of honest intellectual coin. A "practical cop," Vollmer has from the first urged the need of combining the researches and theories of scholars with the observations of those on the firing line.

When such a man writes a book, it is very likely to be good with the goodness that comes of careful marshalling and interpretation of facts.

The Police and Modern Society is a non-technical book, accurate though not loaded down with the freight of footnotes, appendixes, and other customary scholarly paraphernalia. The ordinary citizen can learn a great deal from this little volume, and the professional criminologist and police administrator will find much food for thought in it.

It begins with a survey chapter showing the newer content which social transformation is gradually pouring into the concept of police work. Not only have the traditional duties pertaining to familiar crimes been transformed to meet the improved techniques of the underworld, but vice and traffic control in the modern metropolis present varied and difficult problems largely unsuited to the point of view and techniques of your traditional "cop." Most important, however, is the awakening of police administrators in a few communities to the vital fact, long ago stressed by pioneers like Vollmer, Arthur Woods, and Raymond Fosdick, that all the pursuing and arresting of made criminals in the world, whether by "G-Men" or "g-men," will do little to stop the making of *future* criminals. Vollmer's philosophy is summarized as follows: "Although there are still policemen who believe that there is more crime prevention in the end of their night-sticks than in all efforts to find the causes of crime and devise methods of treatment, long experience with delinquents and criminals has demonstrated to others that attempts to discourage adult offenders from their anti-social deeds is only surface treatment of disorders that go much deeper" (p. 3).

The author—who cannot be said to belong to that much-maligned tribe, "the theorists"—has also arrived at the conviction that "the poor quality of the personnel is perhaps the greatest weakness of police departments in the United States" (*Id.*). The same may be said, with certain exceptions, in respect to other agencies of justice with which his book is not concerned—prosecutors' offices, probation bureaus, penal and correctional establishments, parole boards. But just let the investigator of these problems suggest in a public address that professional standards of education and training are necessary for those who staff the engines of justice, and he will be violently assailed by the sturdy sons of Demos, the press, and even those correctional administrators whose private protestations of their intense desire for progress play second fiddle to their political ambitions. And yet, nobody who both knows and cares can deny the unquestionable truth of Vollmer's summary: "No marked degree of improvement can be expected from the present police set-up. It is defective internally because its functions are too often discharged by amateurs . . ." (p. 4).

In stressing the call for properly trained and decently appointed personnel, Vollmer does not, of course, neglect the need for improvements in administration and technique. The second chapter is devoted to reliable

data in respect to each of the major crimes. Crime rates of leading American jurisdictions are compared with those of foreign, and the statistical matter is illuminated by brief descriptions of representatives of various classes of crime and police techniques of control.

In the next chapter, the author has some plain, blunt things to say about vice as a police problem dependent upon the general public attitude: "Prominent business and professional men, and on occasion persons associated with the church and press, may share the profits indirectly accruing from prostitution, gambling, liquor, and narcotics" (p. 82). Recently the reviewer entitled an opening chapter of his book on *Crime and Justice*, "The Climate of Justice." A law professor reviewer found difficulty in understanding this concept and indeed poked quasi-learned fun at it. A single sentence like the one just quoted from Vollmer's work indicates what was meant; and it is a revealing commentary on the shortsightedness of many "criminal law reformers," and even teachers, that they think the culture medium of the time is irrelevant to a discussion of the problems of crime. Until the moral atmosphere of our culture is given a thorough fumigation, efficient machinery of justice, and even trained personnel, will operate under an almost insurmountable handicap. Vollmer is to be commended for thus clearly and directly digging to some of the roots of his problem, which so many other writers treat *in vacuo*.

The same frankness and clear-sightedness characterize his brief treatments of the problems of prostitution, gambling, liquor, and narcotics control. As long as there is more than a grain of truth in the statement of the prominent police official whom Vollmer quotes—"the best way to get along is to hear nothing, see nothing, and do nothing" (p. 97)—the citizen's complaints of inefficient law enforcement must miss fire. He cannot wink at, encourage, and even profit from commercialized vice and at the same time cry to high heaven that it ought to be suppressed. The oft-quoted dictum of Lacassagne that every community has the amount of crime it deserves packs a mountain of wisdom.

And yet something immediate must be done; and Vollmer's proposal is that since vice control presents such special problems, "the only safe and sane method of handling the problem of gambling—and of all the parasitic vices—is by licensing, regulation, and control, through a state agency established solely for that purpose and empowered to enforce the regulatory provisions" (p. 99). He is convinced that corruption of the enforcement agency will thereby be reduced. There is sure to be difference of opinion on this point, but the author makes out a convincing case in favor of an independent agency which, if properly staffed and organized so that a continuous educational program accompanies its repressive work, ought to make more headway than does the ordinary police department.

In this connection, the author's sound perspective is indicated in the statement that "in the passage of laws . . . the legislative bodies must take into account not the opinions of a militant minority, but the customs and habits of the generality of people" (p. 108). How to counteract undesirable influences of small "pressure groups" intoxicated by the prospect of some world-saving reform, and how to ascertain, even with a fair degree of accuracy, what are the "customs and habits of the generality of people" are among the more pressing questions of political science. They present a major issue encountered in the endeavor to make the democratic process more efficient.

In Chapter IV, Professor Vollmer shows how the problems of modern traffic control add to the already overburdened police force and further bring about a friction between police and public that has its undesirable reflex on law enforcement generally. His pithy analysis of the chief issues of police enforcement of traffic control brings out the obstacles—both professional and lay—to an efficient coping with that juggernaut of modern life, the automobile. Here again the author interprets the problems in the light not of a parochial specialist, but of one who recognizes the relevancy of social psychology and accurate factual research as a basis for social control. His observations on the ill-conceived legislative debauch that followed the increase of automobile traffic ought to be pondered by every student of modern law-making (p. 143). An interesting study in social psychology and ethics might be written based on an analysis of the "limits of effective legal action" as an instrument of social control. Mere legislative draftsmanship, about which so much has been written in recent times, is but a minute aspect of a much more fundamental problem. Experience with the legislative panacea for all social ills of a kind that formerly were taken care of by more legitimate instruments of social control should afford valuable case-materials for some modern Bentham in constructing a twentieth-century theory of legislation. The vicissitudes of "prohibition" readily come to mind; but how true the above observation is in the field of traffic regulation is shown by the following passage from Vollmer's work: "The volume and nature of traffic laws quickly reached a point where law-abiding citizens found it impossible to obey them. The result was that drivers revolted. They began to take pride in their traffic transgressions, and traffic violations became the topic of conversation at clubs and home parties . . . Violators of such laws began to seek immunity through political influence" (p. 145). And, as indicating another aspect of this crucial problem of determining when not to legislate, he points out that juries will nullify many traffic laws by refusing to convict and that all this in turn weakens the authority of law generally (p. 147).

Other aspects of modern police work are included in Chapter V under

the heading "General Service." Particularly useful is the section entitled "Juvenile Delinquency," which the reviewer would have liked to see expanded, since Vollmer's presentation is so convincing yet non-technical that even the ordinary policeman should find no excuse for failing to recognize the vital significance of the relatively modern aspect of police work which juvenile crime has called into being. The same may be said of Chapter VI, "Crime Prevention," which also is much briefer than it ought to be, considering all that a man like Vollmer could say on this subject as missionary to the traditional police officer.

The cycle of the author's argument is completed with a convincing chapter on "Personnel," its selection, training, and specialization to fit the manifold duties of the modern police officer.

A brief concluding chapter repeats in some measure the valuable opening chapters, and drives home the fact that the plant of law enforcement is greatly conditioned by its soil of social psychology and morality. Improved personnel will help, better techniques will also help, but the greatest need of all is a public that sees its own shortcomings and mends its own ways. For the "machinery of criminal justice" is really not machinery; and law and law enforcement are part of the seamless web of culture.

SHELDON GLUECK.

Law School of Harvard University.

Local Government in England. BY E. L. HASLICK. (Cambridge, Eng.: University Press. 1936. Pp. ix, 363.)

The past few years have witnessed a marked revival of interest in local government in England, and the publication of a number of new books on the subject. Such writers as Herman Finer, W. I. Jennings, H. J. Laski, J. P. R. Maud, and W. A. Robson, among others, have contributed to this renewal of the study. Behind their work lies, of course, a widespread concern over the working of local institutions, a concern that has been stimulated by the investigations of several royal commissions, the passage of important local government legislation in 1929 and 1933, and the observance in 1935 of the centenary of the Municipal Corporations Act of 1835. Even the most exacting student can glean from the recent books now available a very satisfactory knowledge of English local government.

To this new body of literature, what is the contribution of the book now being reviewed? Its author, Mr. E. L. Hasluck, has previously written on modern history and the teaching of history. In a condensed, incisive way, his work deals with the more important phases and problems of the system of local government as a whole. The treatment is by no means exhaustive, but for persons who already know something of

English life and institutions in general, it will undoubtedly prove a stimulating introduction to the study of English local government. It is intended, obviously, for an English audience, and for the beginner and general reader rather than for the special student or expert. Its entire lack of footnotes and bibliography, and the brevity of its index, diminish the book's value as a reference work.

The volume's strength lies in the obviously wide observation, keen insight, lucid style, and complete candor of the author. He writes with spice and humor and illuminates his discussion with numerous apt sayings and pertinent anecdotes. He seems to be completely honest about the corruption, inefficiency, and general chuckleheadedness that are still to be found in some measure in local government—yes, even in England—but he retains his enthusiasm for the subject to the end.

In one respect, despite his protests to the contrary, the author has perhaps gone too far in his strictures. Elected councils at all levels, from county borough to rural parish, fall under his condemnation, not because all members are incapable, not because the net result of their work is not good, but rather because so many councilmen show an "extremely low standard of capacity," indulge in "childish and ridiculous arguments," or are "brainless nobodies," "totally incapable of serious administrative action." This is the language of an exasperated intellectual, but hardly that of a careful social scientist.

All told, this is an excellent book, and one that every American student needs to read to supplement the standard texts. Far more than some more learned books, it presents a picture of actual government, of government that succeeds in doing much good despite its human frailties.

• WILLIAM ANDERSON.

University of Minnesota.

Sveriges Politiska Partier. BY EDVARD THERMÆNIUS. (Stockholm: Hugo Gebers Förlag. 1933. Pp. 195.)

Riksdagspartierna. Sect. II, Vol. XVII, of *Sveriges Riksdag.* BY EDVARD THERMÆNIUS. (Stockholm: The Riksdag. 1935. Pp. 297.)

Attention has been called in the REVIEW to the series of volumes on the Swedish Riksdag published last year under the editorial supervision of Dr. Nils Edén. In this series, there are several works of great value to scholars in other countries. The writer of this review finds all of them valuable, but one that invites particular attention is Dr. Thermænius' volume on political parties in the parliament. This work, together with the author's general study of political parties in Sweden, provides all that the average reader needs to know about the history, organization, and parliamentary activity of Sweden's political parties. If the American

reader finds these volumes deficient with regard to campaign tactics, municipal machines, electoral abuses, and all of the other sordid practical aspects of Anglo-Saxon politics, let it be understood that the deficiency is due to the material and not to Dr. Thermanius' treatment of it.

Sweden has a single election law; it has no machines, in the American sense of the term; and its campaigns are conducted on a high intellectual level. Issues are real, not fictitious. Another treatment of political action in Sweden might have laid open more clearly the sources of power in each party, and the interlocking arrangements with unions of employers, farmers, and workers. But this was not the present author's function; and inasmuch as adequate studies of Swedish party history were lacking, he did well to address himself first to meeting this need.

There are, at present, four large parties in Sweden: the Social-Democratic, the Right, the Peoples', and the Farmers' parties. In addition, there are two extremes: Communists and Socialists on the left, the National-Socialists on the right. Of these, the radical extremists are the stronger. Another division would set off the radical parties against the bourgeois—Right, Peoples', and Farmers'. Theoretically, the Peoples' and Farmers' parties are center parties; but in actual practice, the Peoples' party—a union of the old Liberals and the Liberal Independents (Prohibitionists)—are adjuncts to the Right party, while the Farmers are more or less consistent supporters of the Social-Democrats.

Dr. Thermanius' work is important because it reveals the transition of the Right from a party of the landed estates to a party of the industrialists. While this review is being written, the Farmers are in power following the abdication of the Social-Democrats. Why did this Labor-Farmer coalition break up? The answer lies partly in the history of the Farmers' party; it was originally a conservative party, and its present leaders are only one step removed from the old conservative leadership. In the future, the battle for political supremacy in Sweden will resolve itself into a contest for the support of the small farmers. Basically, this is the problem of progressive democracy in all countries, but it is over-simplified in Sweden because of the non-existence of any significant racial, religious, nationality, or other sharply-identified minority *bloccs*.

At this point, one must halt to inquire whether the true value of studies of political action in small countries does not lie in the fact that such theatres of action are admirable proving grounds for the testing of hypotheses. The field is narrow and, though not easily defined, nevertheless should yield finally to fairly satisfactory measurement.

Unfortunately, there are no satisfactory studies of Norwegian and Danish party history. If there were, a comparative study of the three Scandinavian peoples could claim almost scientific validity. When this job was completed, one could go on to compare Scandinavian, Dutch,

Irish, Polish, and dozens of other variants. The more one reflects on the possibilities of this method, the more convinced one becomes that an appalling amount of work lies ahead. Yet this reviewer is convinced that broad generalizations with regard to political "principles" are valueless until this work is done.

Meanwhile, scholarship owes a debt to Thermanius. He is careful, he has an agreeable style, and he is fair. Swedish political scientists are accustomed to work actively with the party of their choice, but one could never learn from Thermanius' books that he is a Conservative. His sympathies are concealed more cleverly—or is it more honestly?—than this reviewer has been able to conceal his.

ROY V. PEEL.

New York University.

A Diplomatic History of the United States. BY SAMUEL FLAGG BEMIS.
(New York: Henry Holt and Company. 1936. Pp. xii, 881.)

Professor Bemis now adds to his extensive monographic, editorial, and bibliographical contributions to the history of American diplomacy a monumental survey of the entire subject from its colonial background down to 1936. The complicated course of diplomatic development is followed in its reciprocal international actions as well as in its sequence of official American decisions on policy. As indicated by the title, the study is primarily a diplomatic history rather than a history of foreign relations in its larger aspects. The distinction is important since the former lays chief emphasis on governmental acts and inter-governmental relations rather than on the dynamic political, economic, and social stuff of which they are only a fragmentary manifestation. Diplomatic historians (and Professor Bemis is no exception) cannot and do not ignore this richer material, but it is not their point of departure.

The plan of treatment represents a nice blending of the chronological with the topical and regional approaches. Anglo-American arbitrations, for instance, are followed through in a single chapter from 1870 to 1914, and Mexican relations in another from 1867 to 1936. The book contains three parts. Part I, entitled "Foundations," carries the story to the promulgation of the Monroe Doctrine. Professor Bemis' thesis for this period, cogently demonstrated, is that the United States gained diplomatic triumphs through Europe's distress and divisions. Part II is the history of "Expansion" down to "the great aberration" of 1898. The final section, covering nearly one-half of the volume, deals with the twentieth century. A chapter drawing together the related threads of post-war policies relating to the maintenance of peace and a more extensive treatment of the diplomacy of commerce and investment would have enhanced the value of this part.

The author criticises our "blundering" Far Eastern policy after 1898 and advocates a cessation of active diplomacy in China. The policy, he insists, has made Japan the only nation with which the United States has issues carrying potentials of war (p. 799). Our Panama (Caribbean) policy was primarily concerned with strategic rather than economic interests (p. 520). Towards Mexico, the United States, despite extraordinary trials and temptations, has exhibited almost "a Galilean forbearance" (p. 539). America entered the war, he says, primarily because of Germany's unrestricted submarine warfare. Emotional, cultural, and economic factors predisposed us towards the Allies, "*but not to fight for them*" (italics the author's; p. 586). Professor Bemis confesses his original pro-League sympathies, but believes now that abstention was the wiser course. He supports the new neutrality policy, however, partly because it enables us to give negative support to the League's collective system (Chapter XLI).

This volume will be welcomed by historians and political scientists alike, both for its class-room utility and for its value as an authoritative reference work. No single volume covers the subject with such adequacy and judiciousness of treatment.

WILLIAM P. MADDOX.

Princeton University.

Why We Went to War. BY NEWTON D. BAKER. (New York: Harper and Brothers. 1936. Pp. vi, 199.)

"I am convinced," writes Mr. Baker (p. 157), "that our entrance into the war was caused directly and solely by the German use of the submarine. . . ." This thesis, though dear to the heart of Professor Charles Seymour of Yale, will not appeal, says Mr. Baker, to pacifists, communists, or economic determinists. "While I was a member of the Wilson cabinet," he writes, "my preoccupation with questions of military organization, supply, and policy so occupied my time that I had very little opportunity to consider diplomatic problems." Eighteen years later, he employed his leisure time in a study of documents, and came to the "clear conviction that the entry of the United States into the World War was not in the least affected by munitions makers or bankers, that the business interests of the country and the welfare of our people during the long struggle were a constant but, as it seems to me, a proper object of solicitude of the government, but that nothing done in the protection or furtherance of these business interests affected the ultimate decision." To prove his thesis, Mr. Baker quotes copiously from those notes and papers of Wilson, Bryan, Lansing, and Bernstorff which dealt with the submarine issue.

Important as this issue was as the spark which set off the tinder, one

can look in vain in these diplomatic confines for any of the other causes or forces which might conceivably have conditioned our willingness to join the holy allied crusade to make the world safe for democracy. Mr. Baker admits (p. 160) that he may "to some extent" have confused the occasion with the cause. But he rejects with unexpected naiveté the possible influence of forces of which "munitions-makers" and "bankers" are symbols. Munitions industry? There was none in 1914. He had a frightful time getting enough arms and equipment to fit out Pershing's expedition into Mexico ("called 'punitive,' but in reality defensive"). And in 1917, "when we began the actual mobilization of material for our participation in the World War, there simply were no American munitions-makers." (Page Senator Nye.)

As for the bankers—"While I was a member of the cabinet from 1916-1921, I do not recall having had a conversation with a banker on any subject. . . . My complete absence of recollection on that subject extends to conversations with my cabinet associates . . . As a consequence, I am forced to conclude that if any banker sought to exercise pressure in favor of any national policy on the subject . . . all of my cabinet associates conspired to keep me in ignorance of the plan." That the sentiments of bankers "had the slightest effect upon President Wilson, if they were even communicated to him, is so fanciful and improbable as to pass the bounds of belief. . . ." There is a temptation to quote more from Mr. Baker's book. *Ex ore tuo iudicaberis.*

HERBERT W. BRIGGS.

Cornell University.

Neutrality; Its History, Economics, and Law. Four Volumes. (New York: Columbia University Press, 1936): Vol. I. *The Origins.* BY P. C. JESSUP AND F. DÉAK. (Pp. xviii, 294.); Vol. II. *The Napoleonic Period.* BY W. A. PHILLIPS AND A. H. REEDE. (Pp. xii, 339.); Vol. III. *The World War Period.* BY E. G. TURLINGTON. (Pp. xx, 267.); Vol. IV. *Today and Tomorrow.* BY P. C. JESSUP. (Pp. x, 237.)

These four volumes will long stand as the definitive analysis of the law, economics, and politics of neutrality, from its origins in the fourteenth century to the present. Indeed, it is the permeating inclusiveness of this exploration of the numerous and often elusive aspects of the problem that makes it unique among treatises in the field. A coöperative effort, in which five experts collaborated, it is informed throughout by careful scholarship and thorough documentation.

The first volume, by Professors Jessup and Déak, covers the period from the fourteenth to the end of the eighteenth century. It was in this period that the traditional "laws" of neutrality developed—often little more than the least common denominator of the naval power of belliger-

ents and non-belligerents in the particular case. Indeed, to speak of law at all, then or now, is only partially correct. For not only is there no "logic" in this field, but the very basis of the rules is to be found in the policies of states at war—not a very firm base for accepted law. As Professor Jessup points out in the fourth volume with respect to the Great War, after five hundred years the rule of *pacta sunt servanda* was still more honored in the breach than in the observance. And that was much truer of the centuries in which practices regarding contraband, enemy property, search, blockade, prize procedure, even neutral duties, were still fluid.

The origins of ideas about neutrality are to be found in feudal custom, the doctrines of the Church as to the relations of Christian rulers and infidels, and the concepts of "just" and "unjust" wars. (It is interesting how viable this concept is—in the light of contemporary efforts to deal with aggression by joint action.) Out of such precedents and analogies, deflected and sometimes frustrated by the tensions among belligerents, there gradually emerged in the seventeenth century a recognition of some of those "laws" of neutrality which have more recently been accepted and applied by treaties as well as in the prize courts. But that they were still tenuous in their hold upon belligerent policy is indicated by the vicissitudes which, for instance, the rule "free ships, free goods" underwent from the sixteenth and early seventeenth centuries to the nineteenth, when it was finally embodied in the Declaration of Paris. As the authors point out, neutral merchants in this period could not be sure, even in trading between ports within their own country in time of war, what they could carry; when they made a foreign voyage, doubt became guesswork.

In the second volume, Professor Phillips traces the legal and diplomatic, and Professor Reede the economic, incidence of the Napoleonic period upon the doctrines of neutrality and the profits of traders. As the former points out, despite the magistral opinions of Lord Stowell, law underwent not merely change but attrition under the impact of belligerent necessity. Napoleon "was a law unto himself, and his Continental System was conceived with no regard for neutral or any other rights." But the same can, with very little modification, be said of British practice in this period—except in so far as advantage dictated leniency toward neutrals.

Professor Reede's, if not the first, is certainly the most exhaustive attempt to draw up a balance sheet of neutral gains and losses during this period. Lord Stowell had, in his opinion in the case of the *Immanuel*, suggested that neutral profits from increased trade more than balanced their losses through the prize courts and otherwise. Professor Reede's conclusions support him. Only Sweden did not feel the upswing of trade which the other Northern neutrals as well as the United States experienced. Despite the loss of over 2,000 merchantmen at the hands of the

British, and perhaps half that number at the hands of the French, he estimates that there was a net gain to this country, even in the very industries like shipbuilding which suffered most from belligerent depredations, and from our own embargo. His careful researches throw much light on the economic effects of neutrality upon commerce and industry.

Professor Turlington's volume deals similarly with the economics of neutrality during the Great War. The losses to all neutrals from belligerent measures relating to contraband were some \$350,000,000; from blockades and analogous measures, some \$920,000,000; from interferences by sovereign right, a further substantial but incalculable sum. These fell very unevenly; Norway suffered most all round, we perhaps as little as any nation. With increased belligerent controls—and increased effectiveness in their enforcement—neutral profits from remaining trade became negligible. Here, as in the Napoleonic period, the severance of customary trade relations tended to emphasize to the neutral populations the importance and the profitable nature of domestic industrial development.

One caveat may, however, be entered to the conclusions of Professors Reede and Turlington. Cautiously presented though they are, they nevertheless suggested to this reviewer a tendency widespread today to equate individual profits with national advantage. The conversion of the substance of a special into the image of a national interest is one of the favorite devices of those very interests which stand to profit from the maintenance of traditional neutral "rights." While both of the authors would no doubt repudiate any such conclusions drawn from their findings, the limitations of national accounting in terms of particular balances need vigilantly to be emphasized. It is so emphasized by Professor Turlington in his conclusion that "the bill for losses and damages must have been ultimately paid by consumers of goods and services."

In the concluding volume, Professor Jessup reviews the conflicts of policy between neutrals and belligerents during the Great War, analyzes the League and neutrality and the American neutrality resolutions of 1935 and 1936, and offers some reflections on the future. Lord Grey's remark in his recollections that "the Navy acted and the Foreign Office had to find the argument to support the action," illustrates the respect with which the belligerents treated existing neutral rights. (And it is worth remembering that when we entered the conflict, we applied with extreme rigor against the remaining neutrals the very practices which, as a neutral, we had most vigorously protested.) Nor has the war resulted in any new codification, similar to that of 1856, even of the remaining fragments of neutral rights.

Rather, the post-war period has seen the emergence of a new principle (or a revival of an old one) that all states have an interest in the prevention or suppression of aggressive war. Professor Jessup belongs to that

school of American thought which rejects the doctrine that either the Covenant or the Treaty of Paris has—as yet—altered the traditional principles of neutrality. The United States may entirely legally refuse to abandon its neutrality or to coöperate to stop aggressive war.

But should it? To this question Professor Jessup offers no unequivocal answer. He discusses the current neutrality proposals, and describes the 1935 resolution as “a hodge-podge of ideas scrambled together in the legislative frying-pan in the closing days of a hot summer session in Washington.” The 1936 resolution he considers only less vulnerable than that of 1935. Neither provides any real insurance against involvement through trade, or travel of American citizens, nor any effective basis for international coöperation, even to the extent of consultation. He rightly emphasizes the significance of the provision in the Argentine Anti-War Pact of 1933, to which this country is a party, requiring the signatories to “adopt in their character as neutrals a common and solidary attitude.” The implementation of that clause at Buenos Aires might well be a major factor in defining an effective neutrality policy for the future. As Professor Jessup points out, such a policy will in any case involve sacrifices—in prospective trade profits—and can be satisfactorily administered only in a period of peace before the outbreak of war.

These four volumes are cumulative evidence of the importance of neutrality to the United States. The contribution which the authors have made to a sound and workable solution will, it is greatly to be hoped, be measured by the capacity of our executive and legislative leaders to convert their triangulations of the issues involved into a chart for the future policy of the country. Certainly they have provided the data on which to base it, with skill, thoroughness, and conviction. Professor Jessup and his collaborators are to be congratulated on the completion of so notable a contribution to public understanding of a highly important question.

PHILLIPS BRADLEY.

Amherst College.

The Far Eastern Crisis. BY HENRY L. STIMSON. (New York: Harper and Brothers. 1936. Pp. xii, 293.)

This book, published for the Council on Foreign Relations, is a valuable one—so valuable, indeed, that it is impossible to do it full justice within the space allotted to this review. A year and a half ago, the reviewer, in a volume dealing with the Sino-Japanese controversy and the League of Nations, observed that a full account of the subject could not be given until there should be available the diplomatic correspondence of the leading Powers between themselves and with Japan during the period since September, 1931, when the Japanese army began its invasion and military occupation of the Manchurian provinces of China. It was there pointed

out that of this correspondence, only that between the United States and Japan had been made public. The same situation in this respect still exists, except that we now have this volume by former Secretary of State Stimson which provides a clear account of the policies pursued in the premises by the American government. Incidentally, facts are revealed which previously have been generally unknown, or, at most, have had to be guessed from what was known. As an instance of this may be noted the efforts made by the American government to obtain from the British government a joint invocation of the Nine Power Treaty, and the fact that it was only when these failed that it was found necessary to state the position of the American government in Mr. Stimson's famous letter of February 23, 1932, to Senator Borah.

Mr. Stimson makes plain in his book the complexity and delicacy of the situation that had to be met, and, to the reviewer at least, he demonstrates that, if one initial mistake of judgment be excepted, the policy pursued by the American government was an enlightened, and, at times, a courageous one. This initial mistake was the opposition made to the sending at once to the Far East of a neutral commission of inquiry—an opposition based upon the expectation, or at least the hope, that, by not increasing the irritation of military authorities of Japan, an opportunity would be given to the civil authorities under the liberal leadership of Baron Shidehara to recover control of the Japanese army. This was an honest and understandable mistake, but this cannot be said of the failure of the British and French governments—and especially the British government—to give immediate support to the non-recognition doctrine declared by Secretary Stimson in his note of January 7, 1932. Also, what can be said for the speech of Sir John Simon in the Assembly of the League of Nations at the time when the various members of the League were declaring their views with regard to the report that had been made by the Lytton Commission of Inquiry which had finally been sent to the Far East?

Mr. Stimson employs throughout his book a moderate mode of statement which is especially shown when dealing with his great disappointment with Great Britain's failure to support the position taken by him in his note of January 7. At the same time, he leaves no doubt as to the conviction of the American government that Japan, by her actions, had flagrantly violated her obligations as a member of the League of Nations and as a signatory to the Kellogg-Briand Peace Pact and the Washington Nine Power Treaty of 1922.

Mr. Stimson's purpose does not make it necessary for him to deal in any detail with the operations of the Japanese army in China, but, none the less, he devotes considerable space to a description of the fighting at Shanghai. His account of this phase of Japan's military operations is one

that will make extremely unpleasant reading for the Japanese military and naval authorities; for, from it, it appears not only that they acted without military justification and with extreme inhumanity, but that they exhibited conspicuous incapacity. Incidentally, Mr. Stimson shows that when England found her own material interests so greatly endangered, her policy at once changed—"the London Foreign Office awoke with a rush. There was no need thereafter for any suggestions on our part of action or coöperation. They seemed to be even more anxious than we for vigorous action to meet the emergency."

Mr. Stimson, in his volume, seizes the opportunity to deal with what, in his opinion, should be the fundamental or long-time character of American foreign policy. He recognizes the fact that the League of Nations is "the principal existing machinery for collective action in war prevention," and, while not proposing that the United States should join it, he declares that, should the League show unfaltering courage in the exercise of its powers, American public opinion should and would approve coöperation with it.

In his concluding chapter, Mr. Stimson emphasizes the importance that he attaches to harmonious Anglo-American policies for the solution of the problems of this troubled world.

W. W. WILLOUGHBY.

Washington, D. C.

Militarism in Japan. BY KENNETH W. COLEGROVE. (Boston and New York: World Peace Foundation. 1936. Pp. 77.)

Eyes on Japan. BY VICTOR A. YAKHONTOFF. (New York: Coward-McCann, Inc. 1936. Pp. 329.)

The stubborn fact of Japan's rapid and successful expansion—territorial, economic, and military—has served as a challenge to the analytical prowess of many different types of observers. A deluge of journalistic essays on the "menace" of Japan gives one the impression that Japanese statesmen and military leaders literally devote most of their time to the unearthing of international engagements the flagrant violation of which will produce the maximum amount of world-wide resentment, suspicion, and hostility. Also offered as facile "explanations" of Japanese foreign policy are inherent racial characteristics, an international inferiority complex, natural sanguinariness, sadistic tendencies, and abnormal national ambition. When pseudo-analysis is exhausted, discredited labels are pressed into service; all moves are seen as examples of fascism, imperialism, fanatical nationalism, capitalism at bay, or militarism rampant. Almost every term or tendency which can be attributed with evil connotation to the aims and acts of a national government has been employed

to "explain" a series of events which had a score of counterparts in the nineteenth century, when they were either taken for granted or mildly denounced as inevitable accompaniments of national development.

Professor Colegrove's brief work presents, on the whole, a factual statement of the influence of military men in the formation of Japanese policy. His first paragraph is significant, for he suggests that in all modern states, including our own, there is a military tradition and that the persistent school-book parade of military exploits leads us often to view foreign affairs against a background of glorified violence. Japan is no exception; her Bushido code is indigenous and adequate, but contact with the West has contributed a new sense of nationalism as well as the system of conscription. The author's short analysis of the unique influence which militarists in Japan have derived from tradition and the nature of the supreme command, with inevitable duality in government and diplomacy, is concise and well balanced. He is careful to point out that the civil elements have often been coadjutors of the militarists; one might add that the cases where the militarists seem to have made "victims" of the civilian officials do not measure exactly the domination of the former, for often the Foreign Office has found dual diplomacy a handy device and used it as such.

Japan proper lies at the feet of two of the world's most numerous and unpredictable peoples. Her rapidly increasing population aggravates, perhaps creates, a problem which, she is convinced, only immediate industrialization will solve. Industrialization requires natural resources and markets not to be found at home. That situation produces advocates of expansion, the militaristic and imperialistic societies, whose demands the military leaders are attempting to meet by expansion abroad, and the use to the utmost of their constitutional and traditional prerogatives in the determination of governmental policy. There are opponents of hasty and forceful expansion; terroristic groups seek to eliminate them, particularly when such opponents are rendered suspect by connections with political parties which, by their alliance with the leading capitalists, have lost popular confidence. That chain of circumstances may enhance the prestige of militarists; certainly, it can hardly be said that militarism produces the consequential policy and events. What over-emphasis there is in Japan today upon militarism is primarily effect rather than cause. Professor Colegrove is only faintly optimistic concerning the recent apparent retreat of the military group, for now even the industrial and financial capitalists, who control the only hope of constitutional democracy, the political parties, are beginning to see some merits in the expansionist program.

Mr. Yakhontoff's book is an informative survey of Japan's history, her economic, social, cultural, and political problems, and her relations with

China, England, Soviet Russia, and the United States. For the general reader who is not too much concerned with opinionated and doctrinal interpretations of events in the Far East, particularly the foreign policy of Japan, it will serve as a useful introduction to a complex people whose national energy and initiative have created a complicated situation. The author's intimate descriptions of Japanese customs, culture, and social life are interesting and able. In his larger thesis, however, he succumbs to strong prejudices. In his view, Japan is a prime example of capitalism and imperialism run amuck—and apparently capitalism and imperialism are bad at their best. There is not the slightest tendency to impute even an occasional error or low motive to Soviet Russia or to China, and for Japan the most that can be said is that her evil record is all that could be expected from a capitalist society.

There are doubtful cases of specific statement and opinion. "The side-show at Shanghai (1932) was designed, apparently, to divert the attention of the Powers—from the Manchurian affair." The Japanese mandated islands are assigned a population of a "few hundred thousand," whereas the latest report shows a total of slightly over 100,000. The author's use of vital statistics for Japan is obviously confused by the employment of a natural increase rate exactly ten times too small; for "13.79 per ten thousand," read "13.79 per thousand." It is diverting to learn that beriberi and sleeping sickness are the same, and that the former "comes from too much rice;" the tsetse fly and polished rice are ignored, or else made synonymous.

There is about as much futility in explaining Japanese policy in terms of militarists gone mad as there is in implying that peace in Asia demands the overthrow of the capitalistic system. Although neither writer goes quite so far, the lay reader is led some of the way without warning. In many countries today, foreign policy has little relation to either the truth or the illusion of what the public reads. In the United States, however, we are engaged at the moment in trying to locate an official attitude toward Japan and, for good or ill, that attitude will derive its character from the state of the public mind. We need, therefore, to be constantly on guard against partial and incomplete analyses of the Japanese, for even the most intelligent general reader can read only one book at a time and few people read two or more supplementary volumes consecutively.

A. E. HINDMARSH.

Harvard University.

L'Alliance Franco-Russe. BY BARON BORIS NOLDE. (Paris: Librairie Droz. 1936. Pp. 700.)

Reading as shrewdly as he might through Baron Nolde's narrative of the making of the Franco-Russian alliance of 1891, the customary Mar-

tian visitor could come to no other conclusion than that European man lived solely and exclusively in the diplomatic pouches of the couriers and in the normally mendacious phrases of the diplomats themselves. For all the clarity and technical excellence of Baron Nolde's exposition of a complex era in Europe's history, this reviewer—perhaps because he does not belong to the clan of diplomatic historians—found himself most vividly struck by the one-dimensional barrenness of both methods and materials. There is scarcely the faintest whisper betraying the existence of a domestic realm within states, of a swiftly expanding capitalist order with its overturn of social forces and traditions, or even of changing parties and party battles. To use a well-worn analogy, it is the flattest of chess boards on which there move with an ordered imprecision only czars and ministers and diplomats, essentially automatons in a meaningless ritual game of alliances and counter-alliances, checks and counter-checks.

The game begins, for the purposes of this volume, in 1871 when France falls before Germany and a master player arranges the European pieces on his board in such fashion as to please his Bismarckian sense of supremacy without too seriously galling the diplomatic sensibilities of the czars, kings, princes, and ministers who occupy the surrounding squares. Three emperors are joined together in an alliance which lends an uneasy stability to one large sector of the board, but French diplomacy is temporarily withdrawn from any significant moves, while Britain tends to be pre-occupied with a private game of her own between minor pieces only scantily identified here. But new ministers and princes are appearing to lend a superficial complexity to the ordered routine; even nations such as Italy and Bulgaria bob up to disappear speedily behind, indeed to be absorbed into, their appropriate diplomatic *alter egos*. The new pieces confuse the orderly progression of the Bismarckian system: the Russian pieces—the Czar and Giers—find their Austro-Hungarian counterparts meddling with the wrong puppets, and Britain and Italy have advanced to disturbing points on the board. Then an almost three-dimensional figure swaggers frivolously for a few pages out of his conventional polished ivory casing and pushes the biggest piece of all off the board. To the Kaiser falls the credit for the disruption of the old game and the beginning of a new one in which the Czar and Giers join with Ribot and other pieces constituting France to rearrange the surface of the board.

In a prefatory comment, Baron Nolde warns against envisaging the problems of foreign policy in terms of the abstract algebraic values known as states. It is not, he suggests, that "France" wants the Franco-Russian alliance, but that various diplomatic groups and personages within the country want it, ultimately affecting the destiny of the synthetic reality which is the state. It is a useful warning, but one which the author himself applies only in its most restricted sense. In his pages, no substantially

peopled France or Russia appears beyond that which accidentally strays into the diplomatic documents. The diplomatic game appears to have no goals beyond its own single dimension; no real forces condition the imperialist onslaughts of the period, and nothing but the most shadowy armies stand behind the skillfully tangled webs. Yet in all these understandings and alliances there seem, in cold reality, to be nothing but plans for the successful waging of the next war.

With these reservations, it is a skillful and amply documented guide through a complex period that Baron Nolde has given us, illuminated in part by previously unpublished documents. It is a story which cannot be read without a growing fascination, even though its characters appear to be moving only in a shadow play.

RUPERT EMERSON.

Harvard University.

BRIEFER NOTICES

AMERICAN NATIONAL GOVERNMENT AND POLITICS

"There are no officials of more importance to American industry than those who man our federal regulatory commissions." Thus E. Pendleton Herring introduces his interesting study entitled *Federal Commissioners* (Harvard University Press, pp. xi, 151). Mr. Herring believes that the answer to the question "what are the proper qualifications for members of these commissions" must be sought in an examination of the careers and qualifications of those who have served on these bodies. This he has done with evident thoroughness through the use of congressional documents, commission files, and personal inquiries. The data thus secured are reviewed and interpreted in order to show the results of statutory provisions concerning term of office, party affiliation, occupational background, sectional distribution, and previous business connections, and to reveal information concerning such matters as education and experience, prior government service, age, length of tenure, reasons for separation from the service, the effect of senatorial confirmation, and presidential practices in appointments and reappointments. The raw data upon which these observations are based are assembled in a series of appendices at the close of the monograph. While the study is essentially a fact-finding one, the writer ventures some conclusions which are either interspersed through the interpretative chapters or presented in his closing chapter. He finds two major faults in our present system: (1) the average brevity of service, and (2) the lack of intimate knowledge of administrative duties on the part of most appointees. He believes that the experience of the many commissioners consulted makes it clearly impossible to lay down any set of qualifications which could be made the basis for statutory

instructions. He concludes that we may with profit turn to the careers of those who have been eminently successful in their work upon those commissions which have definitely found their place in the national administrative scheme as a reliable guide in determining those elements of character, training, and experience which must be sought in future members of these important governmental agencies.—LLOYD M. SHORT.

For a number of years, many students of political science have been asserting that the pressing need for expert management in public administration in this country can be met, in some measure at least, by the creation of a special class of administrators recruited from the ranks of our ablest college graduates. In *Public Service and Special Training* (University of Chicago Press, pp. ix, 83), Mr. Lewis Meriam boldly attacks the validity of this proposal. "I fear," he writes, "people who study the position the administrator is occupying today and not the path that led him to his present position." Knowledge of the techniques of management is an essential part of the administrator's equipment, but no less so is knowledge of the subject-matter to which these techniques are applied. The British method of recruiting college men with a purely cultural education for responsible posts the author believes is impractical in this country because it is not readily adaptable to the American educational system with its primary emphasis upon vocational training. This may be seen in the failure of our professional schools and associations to support any plan of public administration training as a professional enterprise. To the college undergraduate seeking to enter the public service, Mr. Meriam's advice is to train himself, not in public administration per se, but rather along vocational or professional lines. His rise to an administrative position in the public service is far more certain if he is admitted by way of the "professional, scientific, and technical entrance gate." Administrative ability is developed only after experience within the service, and the professional, scientific, and technically trained groups can and do provide capable administrators. Mr. Meriam, in other words, is convinced that existing personnel practices, which are the product of conditions peculiar to the American public service, can supply all the expert management that we need, and he therefore decries any attempt to abandon these practices in favor of a theoretical proposal whose practical value is at best highly questionable. Coming from one who has had years of experience in the federal service, these observations—and this little book is packed with many others equally arresting—constitute a genuine challenge to some of the widely accepted notions concerning the teaching of public administration by political scientists.—PAUL T. STAFFORD.

Disciples of the current doctrine of states' rights will find very pleasant reading in *Neither Purse nor Sword*, by James M. Beck and Merle Thorpe

(Macmillan Co., pp. x, 205). Those who believe that government's powers should be commensurate with its problems will react quite differently. The book is not merely a criticism of the New Deal; it is an indictment of the "centripetal" tendencies of several decades. Finding the Supreme Court an inadequate safeguard, the authors appeal to public opinion. They criticize the Court for undue hospitality to the doctrine of implied federal powers, under which the commerce, currency, taxing, and spending powers have been "perverted" to achieve regulatory and ameliorative purposes "never intended" by the Fathers. The entire argument is based upon such post-mortem psychoanalysis—often without documentation. Amendments XV to XIX inclusive are deplored as improper federal encroachments upon the sphere of the states, or as dangerous extensions of democracy. Amid denunciations of relief expenditures, assistance to agriculture, federal aid to the states, and income and inheritance taxes—all of which despoil "the strong to aid the weak"—a significant silence prevails concerning the protective tariff. A few sound observations on the dangers of bureaucracy are clouded by a lack of complete veracity on the subject. The reader will look in vain for constructive suggestions for dealing with present social and economic problems. These are dismissed as of no greater consequence than those of 1787, and as unquestionably capable of solution by the methods then employed. Adhering to their thesis of constitutional absolutism, the authors declare that the principles formulated by the "moralist" Fathers should outweigh all considerations of mere "opportunism." Typical of the book's numerous absurdities is the statement that Alexander Hamilton "advocated a totalitarian socialistic state." Of course, one may scarcely expect sound scholarship in a piece of special pleading worthy of the American Liberty League.—CARLTON C. RODEE.

As the title indicates, *The Constitution and the Men Who Made It* (Houghton Mifflin Co., pp. xii, 314), by Hastings Lyon, tells the story of the Constitutional Convention of 1787. "This endeavor," says the author, "pretends to no research beyond prolonged pondering over Madison's report of the debates." Indeed, Mr. Lyon says that Max Farrand's *The Framing of the Constitution* "is so clear as to raise a question whether any further attempt at lucidity is worth while." "I hope," he adds, however, "that diligent consideration has found a few fresh points of view." The book has one feature which should be noted. In the author's own words, "In an attempt at a little relief from the monotony of statement about words, I have scattered through the pages biographical sketches of a number of the more prominent members of the Convention." Biography is especially interesting in this connection. For as the one hundred and fiftieth anniversary of the Convention draws near, one recalls what Alexis

de Tocqueville wrote about a hundred years ago: "The chief cause of the superiority of the federal constitution [to the state constitutions] lay in the character of the legislators who composed it. At the time when it was formed, the dangers of the confederation were imminent, and its ruin seemed inevitable. In this extremity, the people chose the men who most deserved the esteem, rather than those who had gained the affections, of the country." This is, of course, a mixture of fact-judgment and value-judgment. But there it is, to challenge study of the men as well as of what they made. The general reader will find Mr. Lyon's book an adequate account of what the framers did and who some of them were; and the student may gain from reading another thoughtful description of the Convention's work.—JAMES HART.

Books on Jefferson have been as various in approach and emphasis' and almost as numerous, as were the interests of that many-sided genius. It is of Jefferson the administrator that Claude G. Bowers writes in *Jefferson in Power* (Houghton Mifflin Co., pp. xix, 538), and he has made of the book a chronicle as vivid, as interesting, and as important as his earlier *Jefferson and Hamilton*. The eight years of Jefferson's tenancy of the White House were years which went far toward determining the destinies of the young republic. They were turbulent years of party struggle and acrimonious debate, when respectable men skirted the edge of treason, when foreign diplomats intrigued with the disloyal, and a boisterous press loudly demanded war. Throughout the two administrations, the Federalist opposition was bitter, and after the death of Hamilton it was unscrupulous, putting every obstacle from parliamentary obstructionism to nullification in the way of a program which its leaders conceived to be subversive of their vested right to rule. Yet when Madison succeeded to the presidency, the territory of the Union had been doubled, the public debt had been substantially reduced, taxes had been cut, there was a surplus in the Treasury, and the country remained prosperous and at peace. Jefferson's success was at once an administrative triumph and a party victory which marked the end of Federalism. Mr. Bowers has written of all these things a frankly partisan account, enlivened by shrewd thumb-nail sketches of the men and women who moved across the stage and behind the scenes, and by colorful descriptions of life in the capital and on the frontier in the early 1800's. He has written also of the struggle between popular sovereignty and vested interests, and in the writing the theme transcends its setting. It is the story of democracy itself, and it is as contemporary as today's newspaper.—CHARLES M. WILTSE.

In *Kicked In and Kicked Out of the President's Little Cabinet* (Andrew Jackson Press, pp. xii, 371), Ewing Young Mitchell tells of participation in a surreptitious pre-convention campaign for Roosevelt in Missouri,

and of his subsequent experiences as Assistant Secretary of Commerce. According to Mr. Mitchell, the departments in Washington are dominated by selfish cliques of permanent officials, and to remedy this he proposes a quadrennial turnover of most of the bureau chiefs. He devotes himself primarily to charges of administrative irregularities in the Department of Commerce, but does not add greatly to the facts as developed in the Senate committee hearings at the time of his dismissal. Perhaps Mr. Mitchell was too quick to see wrongdoing, but his attitude compares favorably with the suggestion which he attributes to Mr. Farley: "I would leave to the Republicans the uncovering of any crookedness that may be in the Department of Commerce."—W. REED WEST.

In *Henry Clay and the Whig Party* (University of North Carolina Press, pp. 295), George Rawlings Poage has presented the first scholarly study of the great Kentuckian. Although the book is not a biography, since Clay's last twelve years alone are covered, a significant period both for him and for the nation is well handled. Making use of the Clay, Crittenden, Webster, Clayton, and Taylor papers in the Library of Congress, the author has brought to light the personal and party politics of the eventful years immediately before the Whig party and its leader died. The warm glow of Clay's personality brightens the restrained and careful historical account; for in personal magnetism, America has offered no superior, and only Franklin D. Roosevelt, buttressed by the presidency, as a peer. Little attention is devoted to party organization or to an analysis of vital social forces; hence the book is of value chiefly to the party historian.—J. B. SHANNON. •

STATE AND LOCAL GOVERNMENT

The members of the 1937 session of the Michigan state legislature have found on their desks two new publications which should be of great assistance to them in their work. The first is the *Report of the Civil Service Study Commission* (Lansing, pp. 90); the second, Harold M. Dorr's *Administrative Organization of State Government in Michigan, 1921-36* (Bureau of Government, Ann Arbor, pp. 28). The latter is a factual study of the state reorganization of 1921, later amendments, and present proposals for change, followed by a careful outline of the present administrative agencies, with a summary of the legal basis and functions of each. An excellent chart of the administrative organization of the state is included at the end of the pamphlet. The Civil Service Study Commission was created by Governor Fitzgerald in October, 1935, to make a survey of the state civil service and to draft a civil service law to be submitted to the legislature at its 1937 session. The published report which has resulted from the labors of this group of five citizens is comprehensive and convincing

evidence of the need for legislation. Dr. James K. Pollock, of the University of Michigan, was chairman of the commission, which included among its members Dr. Lent D. Upson, of Wayne University. The basic data were collected by a staff under the direction of the Public Administration Service. The report consists of an analysis of present personnel practices, illustrated by numerous tables and charts, followed by a proposed civil service bill for the state of Michigan, with annotations. The bill is a great advance upon former state civil service laws, although in a number of its features it represents a compromise with local sentiment at the expense of a more ideal arrangement. Such are its insistence upon placing the administration of the law under an independent agency, giving it four members equally divided between parties rather than a non-partisan or at least uneven-numbered membership, and creating a very long list of unclassified positions. But these concessions to expediency are overbalanced by the success of the commission in devising stoppers for most of the loopholes through which present civil service laws are flagrantly evaded.—HARVEY WALKER.

Five recent bulletins relating to local government in New York constitute a noteworthy addition to the growing literature concerning rural local government. *Rural Government in New York* (Cornell Extension Bulletin 331, New York State College of Agriculture, pp. 39), by M. P. Catherwood, is a study of the organization of local government and the administration of local functions in the fifty-seven counties outside New York City. For the most part, the study is confined to the government of counties, towns, and school districts, since these are the areas of particular significance in rural communities. In addition to the discussion of organization and administration, sections are included on the significance and historical development of local government, and the interrelationships of the various governmental units. Brief consideration is given also to the act of 1935 providing optional forms of county government, the local-government amendment to the state constitution adopted the same year, and the possibilities of effecting improvement under those measures. The other four studies, bearing a common imprint (Ithaca, New York, August, 1936), are bulletins of the Cornell University Agricultural Experiment Station. In *Use and Value of Highways in Rural New York* (Bulletin 656, pp. 30), W. M. Curtiss presents a comparative analysis, based upon traffic counts, of the nature, intensity, and origin of traffic on New York highways in 1926-27 and 1934. Data are also included, as obtained from questionnaires mailed to Farm Bureau members in 1935, relative to the extent to which automobiles and trucks are used by farmers, and farmers' estimates of what improved roads are worth to them. *Local Government in Tompkins County, New York* (Bulletin 657, pp. 44), by

T. N. Hurd, is a study of the government of the 162 local units in a single county. These units include, in addition to the county itself, nine towns, five incorporated villages, 133 school districts, thirteen special street-lighting districts, and the city of Ithaca. Both governmental organization and the financing of local activities are considered, with particular emphasis upon trends in taxes and governmental costs. Possible changes in local organization and administration are suggested. In *Variations in Town Taxes in New York* (Bulletin 658, pp. 43), M. P. Catherwood analyzes the trend in town and special-district taxes in the 932 New York towns from 1900 to 1934, and in the variations in such taxes among the several towns in 1934. The effect upon tax trends and variations of such factors as density of population and taxable property per capita is studied. Town and special-district taxes combined are found to amount to approximately ten times as much in 1934 as in 1900. It is concluded that, while increases in population and in the general price level have been of some influence, the most important factor in bringing about this great increase in taxes has been a marked increase in governmental services. *Receipts and Expenditures of 876 New York Towns in 1934* (Bulletin 659, pp. 50), by M. P. Catherwood, is an analysis of the receipts and expenditures of the towns of the state exclusive of those in Nassau, Rockland, Suffolk, and Westchester counties, and those with a population of more than 10,000 in other counties. Consideration is given to the relation of such factors as taxable property and density of population to variations in total town expenditures and in the distribution of the total expenditures among the several town functions.—CLYDE F. SNIDER.

With a program of social security an almost certain development in the years just ahead, two monographs issued by the Public Administration Service are of very timely interest. No. 52 (pp. 74) is *Unemployment Compensation Administration in Wisconsin and New Hampshire*, by Walter Matscheck; No. 53 (pp. 48) is *The Administration of Old Age Assistance in Three States* (Massachusetts, New Jersey and New York), by Robert T. Lansdale, Agnes Leisy, Elizabeth Long, and Byron T. Hipple. The systems established in these states are examined almost solely from the point of view of their administration, and quite properly so, since the effectiveness of such far-flung programs depends even more than is commonly the case upon alert and efficient day-by-day management. It is well also to begin such studies at the outset of such programs so that critical observation may parallel official experience. Other states are to be surveyed later, and the two monographs before us are in the nature of interim reports. No complete account of their findings is possible in the space available here, but it may be said that both cover with commendable thoroughness such matters as state and local machinery and person-

nel, state supervision of local authorities (in the case of old age assistance), central and local record-keeping, and the general effectiveness of administration. An important part of the study of old age assistance administration is the statement of the elements of a state supervisory program developed by the authors after surveying practices in the three states studied. Though the sample is perhaps not sufficient to warrant many general conclusions, both studies indicate that on the whole the programs have been administered intelligently and with a minimum of friction, considering the difficulties involved in implementing a novel program, assembling a properly trained personnel, and developing workable administrative procedures. Both studies are critical and constructive in the best sense of the terms, and no student of social security can afford to pass them by.—LANE W. LANCASTER.

In *Machine Politics in New Orleans, 1897-1926* (Columbia University Press, pp. 245), George M. Reynolds traces the origin, growth, and rise to power of the Choctaw Club of New Orleans, and describes the political life of Martin Behrman, one of the outstanding personalities in American municipal life. To those who have an intimate knowledge of and interest in Louisiana politics, this biography is somewhat disappointing. The vigor, gusto, and fanfare of Louisiana machine politics are missing. The work will prove of considerable value, however, to those who are interested in securing a general knowledge of contemporary political conditions in Louisiana's largest municipality, and of the usual relations existing between state and local machines. Too much stress is laid on a "so-called" social, economic, and legal background, and the more valuable chapters on Martin Behrman and on the organization and activities of the Choctaw Club appear weak in comparison. In view of the fact that an historical approach is followed, the modified form of commission government in effect in New Orleans in 1868 should have been noted, and its close similarity to the form now existing would perhaps explain the fact that the charter of 1912 simply superimposed a commission form of government on the old mayor-council system. For this reason, commission government has never been achieved as such in New Orleans, and it is this fact that still makes the mayor a leading political figure. Dr. Reynolds concludes by suggesting some interesting reasons for the lack of opposition to the "Old Regulars" in New Orleans, and for the one-party system in the state.—R. L. CARLETON.

The *American Planning and Civic Annual* for 1936 (American Planning and Civic Association, pp. xxii, 248 and 170) consists of two parts. Part I contains approximately fifty papers dealing with national planning and parks, the regional park system of Washington, state planning, roadside

improvement, and state parks. These papers were delivered at various national and regional conferences held during 1935 and 1936. Part II contains the proceedings of the Joint Conference on Planning held in Richmond, Virginia, in May, 1936. These papers are grouped under city, county, state, regional, and national planning, and the addresses delivered at the annual banquet form a final section. In preserving such a composite contribution to the literature in its field, the American Planning and Civic Association extends its range of influence immeasurably, instead of confining it merely to persons in actual attendance at its conferences. The *Annual* justifies the hope expressed by Mr. Frederic A. Delano, president of the Association, that "readers will find accurate information, stimulating thought, and an urge to join with us in our effort to coöperate with city, state, regional, and national planning agencies for a realization of better living and working conditions brought about through avoidance of waste and an application of planning principles."—DOROTHY SCHAFFTER.

The Bureau of Public Administration of the University of California has recently issued the first of a series of publications dealing with the interrelationships of federal, state, and local administration in that state. Written by Frances Cahn and Valeska Bary, it is entitled *Welfare Activities of Federal, State, and Local Governments in California, 1850-1934* (University of California Press, pp. xxiv, 422). The treatment is historical and descriptive. In addition to being well-documented, the volume bears the stamp of exhaustive, methodical, and meticulous research combined with able editing. While probably of primary interest to Californians, the state's contribution on such items as juvenile delinquency will render the work a valuable reference book elsewhere. Political scientists will be interested in the recommendation of return to board administration of an integrated welfare department after a decade of experimentation with a director whose tenure is subject to the will of the governor.—JOHN M. PFIFNER.

A careful study of tenement housing in Chicago, started by the staff and graduate students of the School of Social Service at the University of Chicago in 1908, was continued over a period of approximately twenty-five years, and the results are now presented in *The Tenements of Chicago* (University of Chicago Press, pp. xx, 505), written in large part by Miss Edith Abbott. In the volume will be found valuable data on tenement legislation, population characteristics, congestion, rents, lodgers, furnished rooms, home-owners, eviction, etc. The findings point to the need for action in the field of improved housing for low income groups. Miss Abbott believes that the attack on tenement house conditions should proceed along four lines: (1) new buildings on vacant land where land

values are cheap, (2) new buildings to accompany slum clearance, (3) better tenement house laws and enforcement of them, (4) repair of old houses. For such a program, a national policy and federal funds will be necessary.—HELEN I. CLARKE.

Harrison Boyd Summers, *Unicameral Legislatures* (H. W. Wilson Co., pp. 245), is Vol. XI, No. 1, of the "Reference Shelf," and as such is in the nature of a debate manual. Briefs on the affirmative and negative sides are followed by a fifteen-page bibliography, and this by copious passages culled from books and articles dealing with the history, structure, organization, and workings of legislative bodies, chiefly in the United States.

FOREIGN AND COMPARATIVE GOVERNMENT

Professor H. R. Spencer's *Government and Politics Abroad* (Henry Holt and Co., pp. 558) "is designed for the use of American college students and others who desire an introduction to the politics of foreign countries. . . ." The author has produced a very readable text which should find a wide scope of usefulness in elementary survey courses on foreign government. The treatment of the material marks no sharp departure from the conventions established by previous texts in the field. The approach is primarily in terms of historical conditioning factors and description of present-day structure and organization, country by country; governmental functions tend to be neglected or treated summarily. The feature of Professor Spencer's text which calls for special notice is its coverage. The author does not limit his discussion to the Great European Powers, but also includes sections on Canada, India, Switzerland, Sweden, Czechoslovakia, Yugoslavia, Japan, Latin America with special attention to Chile, and a final chapter on international government. While this venture in political globe-trotting is an altogether admirable effort to enlarge the ambit of the ordinary course in foreign government, it is to be feared that the task of compressing and digesting all this material within the limit of 550 pages of text presents an almost insuperable problem of condensation. Granted the space limitations, Professor Spencer has probably performed the task as well as can be expected. Readers who would like to go further are provided with suggested readings at the end of each chapter. This reviewer, nevertheless, regrets that the author did not see fit to make it a longer book and hopes that a second edition will provide him with such an opportunity.—MERLE FAINBOD.

In *Serjeanty Tenure in Mediaeval England* (Yale University Press, pp. 277), Miss Elizabeth G. Kimball has written an admirably scholarly work on a neatly circumscribed theme. Her book is a description and

early history of one of the less important of the four mediaeval feudal tenures of England, the others being, of course, knight's service, socage, and frank almoign. She has expanded and corrected Round's studies, hitherto our best source of information about serjeanty. Almost the only hypothesis advanced is one suggested by the impossibility of defining the tenure in such a way that the characteristics would be distinctive. Hence Dr. Kimball plausibly maintains that it was largely an administrative creation, a grouping together of various holdings and services which remained outside the other tenures. This was done particularly during the thirteenth century; for in the twelfth evidence about it is fragmentary. Toward 1300 there appeared a tendency to commute it into either knight's service or socage. What in general characterized serjeanty during its brief heyday were the following traits. Many serjeanties arose from personal services due the king or others, though of the great household offices none were such save possibly those of the marshal and the butler. In the household and in the chamber, however, many minor posts were serjeanties. Others were connected with the king's hunting and travel. Others were administrative posts of the central government, especially of the exchequer, or were local, like the keeping of castles. Others still were military, the service being that of one-half a knight's fee and tending to change into knight's service. So diverse were the services owed that toward the end of the thirteenth century the distinction between great and petty serjeanties arose. All military serjeanties and several others were of the former class and carried with them rights of wardship, marriage, and relief. The author has dipped frequently into manuscript sources. Though there is a little repetition, her book is a model of what an expanded doctor's thesis should be.—HOWARD L. GRAY.

The necessarily silent work of a secret service rarely receives such competent publicity as that in Sir Basil Thompson's *The Story of Scotland Yard* (Doubleday, Doran and Co., pp. xv, 347). Out of a series of interesting cases emerges Scotland Yard as an institution. With characteristic British sense, the occasion precedes the organization. Slowly in the face of a settled distrust of a secret police the Criminal Investigation Department proves its competence and need. The story also demonstrates that in Great Britain government is a coöperative enterprise, for behind Scotland Yard are 20,000 local police officers who eagerly enlist its skill. In contrast to our notable group of G-men who are college and law school graduates, Scotland Yard will not take educated men but trains its policemen—an interesting example of the differences between British and American institutions in which the usual practice seems to have been reversed. Sir Basil writes so entertainingly that one is inclined to overlook the implication that Scotland Yard is just another one of those

superior British institutions. To the student of criminal administration, a somewhat more critical commentary would have been welcome.—
MILLER D. STEEVER.

The victory of the Popular Front in the French elections of last spring has occasioned the appearance of a considerable body of propagandist literature, from Communist quarters, designed to justify their new anti-fascist, reformist strategy. Such are Maurice Thorez's *France Today and the People's Front* (International Publishers, pp. 255) and Ralph Fox's *France Faces the Future* (International Publishers, pp. 134). Despite its partisan character, the first volume, by the youthful secretary-general of the French Communist party, is temperate in tone and presents an impressive, if not scholarly, analysis of the changing economic pattern of French society. The second book, written by an English Communist for the edification of his *confrères*, is given more to sweeping and unfounded generalizations and extravagant hopes for the conversion of the French peasantry and industrial workers to the Marxist faith. M. Thorez is very much fairer to his opponents than is Mr. Fox. For the student of contemporary social evolution, both of these tracts are valuable for the insight they afford into how the non-industrialized France of the nineteenth century is yielding to the inexorable forces of the machine age. In this transition, the People's Front heralds, perhaps, the emergence of a new social synthesis, the contours of which are not yet clear. Neither M. Thorez nor Mr. Fox, however, will convince many of their readers that these contours are eventually to be communist.—WALTER R. SHARP.

Nearly half a century ago, F. C. Montague's *Elements of English Constitutional History* took its place as a brief, factual guide to the constitutional development of England from the earliest times. A new edition appeared in 1923; and another (Longmans, Green and Co., pp. 268) came from the press in 1936, with some incidental changes and an added chapter summarizing developments to the death of George V. The book is too brief to be of service to anyone except a beginner.

INTERNATIONAL LAW AND RELATIONS

The current discussion of neutrality problems has evoked a voluminous polemical literature, and threatens to equal the war guilt controversy in its violence and futility. Dispute centers about the "cause" of America's entry into the World War, in the hope that a formula for avoiding all future conflicts may be derived from a study of our national experience as a neutral. Unfortunately for the interests of clarity and objectivity, there seem to be emerging two extreme schools of thought: the economic determinists, in whose view the entry of the United States against Germany was fore-ordained by the first Allied loan, and the idealists, who

insist that America's belligerency was dictated solely by high-minded humanitarianism. Professor Charles A. Beard enters the lists in this battle of books with a suggestive little volume on *The Devil Theory of War; An Inquiry into the Nature of History and the Possibility of Keeping Out of War* (Vanguard Press, pp. 124). The writer attempts to steer a course between the two extremes, but is generally a little to the left of center. "War," he says, "is not the work of a demon" (banker, munitions-maker); it may evolve quite naturally out of peace-time, domestic exigencies, and it is no aspersion upon the sincerity or the character of our responsible statesmen to suggest that they may have been influenced by motives which were not always the conscious and ostensible ones. The cause of American belligerency cannot be "historically isolated, as one isolates a microbe," and to speak of the German submarine campaign as the "basic" cause is merely to add a "question-begging adjective" to an almost meaningless noun. Professor Beard closes with a plea for full publicity in future wars, in order to avoid the suspicion or the reality of collective involvement for individual profit. "If we go to war," he concludes, "let us go to war for some grand national and human advantage openly discussed and deliberately arrived at, and not to bail out farmers, bankers, and capitalists or to save politicians from the pain of dealing with a domestic crisis."—LAWRENCE PREUSS.

In *Maritime Neutrality to 1780* (Little, Brown, and Co., pp. x, 351), Dr. Carl J. Kulsrud has added another to the growing list of studies of neutrality made from the historical point of view. He concludes that the so-called First Armed Neutrality of 1780 was not in fact the first, but rather the fourth attempt of neutrals to secure by concerted action the desired freedom for their navigation. The league of 1780, however, unlike its predecessors of 1691, 1693, and 1756, enunciated a formal creed or list of specific principles which it sought to compel the world to accept. Those principles were so stated as to appeal strongly both to eighteenth-century devotees of the law of nature and of reason and to succeeding historians, with the result that there has been a disposition to credit the Northern Powers with a rather noble and successful rôle in the struggle for the freedom of the seas for neutrals. As a matter of fact, the author contends, those Powers were prompted in their actions by economic and commercial greed; the principles which they sought to impose by force, however reasonable and just, were in large measure in direct conflict with then existing international law and usage; and a number of reforms often attributed to their efforts were actually "effected under different conditions and in time of peace, in the following century." Defense of this thesis patently calls for a detailed study of the "history to 1780 of the main principles involved in maritime controversy between

neutrals and belligerents, and of the agencies evolved to give effect to these principles," and to that study the bulk of the book is devoted. There are chapters dealing with early prize law and prize adjudication, the rule of war of 1756, the principle of "free ships, free goods," the right of visit and search, the evolution of blockade, the definition of contraband of war, and the armed neutralities preceding that of 1780. The book is supplemented with a twelve-page index. Dr. Kulsrud has written well and interestingly, presumably after extensive research in materials which must frequently have been elusive. Perhaps the usefulness of his book might have been somewhat increased had he included a complete bibliography of those materials.—VALENTINE JOBST III.

The nebulous doctrine of *rebus sic stantibus* which the text-writers have been in the habit of referring to casually, without careful analysis or explanation, is at last being brought down out of the legal stratosphere. The works of Chesney Hill, John Fisher Williams, members of the Harvard draft code committee, and others have added immeasurably to an understanding of the elusive doctrine, and T. Young Huang's *The Doctrine of Rebus Sic Stantibus in International Law* (Shanghai: Comacrib Press, pp. 201) now comes as an outstanding contribution to the subject. The new book is compact and comprehensive. The author explains at the outset the relationship between the doctrines of *pacta sunt servanda* and *rebus sic stantibus*, and then proceeds lucidly with an exposition of the ways in which the latter has been employed by publicists, by diplomats, and by the courts, domestic and international. He concludes that *rebus sic stantibus* very definitely contains a legal residue of considerable potential value to the international legal system, despite the loose handling of the doctrine by publicists and statesmen. It is unfortunate that Mr. Huang insists upon incorporating *rebus sic stantibus* into Article XIX of the League Covenant, a view which seems to confuse *rebus sic stantibus*, essentially a legal doctrine for the termination of treaty obligations, with the political and legislative problem of treaty revision. What is most admirable about the book is that it is more than a narrow, legal analysis; the author shows keen perception of fundamental problems and is most stimulating and provocative in his suggestion that while *rebus sic stantibus* is really applicable only to treaties made under duress for an indefinite period, the application of the doctrine to such "agreements" may well be ruled out of order because it is the intention of one of the parties to have the treaty maintained no matter how much conditions may change. This constitutes a neat paradox for international lawyers to ponder about. Mr. Huang has made a highly valuable addition to current international legal literature.—PAYSON S. WILD.

Both the layman and the student of international relations will be interested in Professor R. B. Mowat's volume on *Diplomacy and Peace* (R. M. McBride and Co., pp. 295). Written in a style pleasing to readers generally, the book does not sacrifice information and scholarly discussion. Although the author has given some treatment to the "old diplomacy," his emphasis is distinctly on the "new diplomacy" of the post-war period. A few chapters present rather unusual approaches to the subject. For example, in Chapter VIII on "General Staffs and Diplomacy," the author discusses several instances in which military or naval authorities have acted decisively in diplomacy, either in advising weak ministries or in creating international obligations through "conversations" with the staffs of other countries. In Chapter X, on "The Folly of Sudden Diplomacy," he condemns the practice of exploding bombs in the form of *faits accomplis* in the arena of diplomatic action. Chapter XIV ("Spa Diplomacy") depicts the significance of the conversations between foreign ministers or diplomats of various countries who meet by chance or otherwise at such European health resorts as Spa and Aix-la-Chapelle. The remaining fourteen chapters deal with diplomacy from somewhat more conventional points of view, under such headings as "Open Diplomacy," "Papal Diplomacy," "Diplomacy and the Press," "Diplomacy and Democracy." Professor Mowat criticizes the activities of prime ministers and foreign ministers in modern diplomacy with the statement that "subject to the knowledge and control of their parliaments or people, the technical work of negotiating agreements embodying policy should be left to professional diplomatists working away from the public eye." His discussions throughout are vitalized by the rich historical background drawn upon and by the authoritative quality of his opinions.—NORMAN L. HILL.

Montell Ogdon's *Juridical Bases of Diplomatic Immunity* (John Byrne and Co., pp. xx, 254) is a useful study in the origin, growth, and purpose of the law of diplomatic immunity. The excesses to which diplomatic officers have gone and, less frequently, the exaggerated degree in which governments of receiving states have manifested their sovereign prerogatives have been impediments to efficient international intercourse. Mr. Ogdon is of the opinion that under present conditions a restatement of the law of diplomatic immunity is not only desirable but necessary. The author first attempts to ascertain the fundamental purpose of immunity and why the practice arose. Two factors are conducive to the exaggerated claims which have been made. Medieval practice emphasized the dignity and honor of the representative because of the theory that he represented the person of his master. A second factor resulted from the revival of Roman law, which was erroneously interpreted to offer the basis for the extended claims of sovereignty made by states. These two factors led

to excesses on the part of diplomatic officers and receiving governments. Mr. Ogdon investigates the various theories resulting from these forces, and in neither can he find any true juridical bases for immunity. To state it briefly, the true basis is to be found in the necessity for diplomatic intercourse. Reciprocal advantages and mutual interests are served by granting immunity in those matters necessary for the purposes of the mission. The author concludes that there is no valid juridical basis for immunity beyond this point. The book is not an attempt to develop a new law of immunity. It is a search for a basis upon which to build a law which will be more in accord with modern conditions and more conducive to successful and efficient relations.—WILLIAM M. GIBSON.

The Bagdad Railroad as a German enterprise reached its end with the armistices of 1918. Morris Jastrow's little book on its relation to the Great War had appeared already, and E. M. Earle's excellent study entitled *Turkey, the Great Powers, and the Bagdad Railway* was published five years later. Since 1923, many fresh documents have come out, so that ample justification exists for the careful work of John B. Wolf, who now presents *The Diplomatic History of the Bagdad Railroad* (University of Missouri Studies, pp. 107). Naturally, Dr. Wolf is aware continuously, and perhaps a trifle adversely, of Earle's massive contribution to the subject; his corrections and additions are regularly well thought out and keenly stated. His main reliance is upon *Die Grosse Politik*, the *British Documents on the Origins of the War*, and Benckendorff's *Schriftwechsel* as edited by Siebert. The history of the Bagdad Railway is traced through forty-eight years in seven phases. As planned by the Germans, a line of communication and transportation would be opened up across regions important in all recorded history, but lately in comparison with ancient and medieval times left backward and decadent; the new enterprise promised rejuvenation and reintegration. Turkey would be strengthened economically and politically. Germany would make a lucrative financial investment, would gain prestige in the world of intelligence and culture, and might advance both figuratively and literally toward her political place in the sun." Austria discerned advantages in joining with her ally. But other Powers saw dangers in every part of the plan. Russia preferred a weak Turkey and no strong German line of force crossing her own projected push through the Straits. England feared commercial and political competition with her Mediterranean-Suez-Red Sea route. France foresaw the blocking of her desired railway extensions in Anatolia and Syria, and an unwelcome aggrandizement of her mighty neighbor and "eternal enemy" across the Rhine. Thus the Bagdad Railway project came into the central rivalry which determined the Great War. Nevertheless, the whole scheme was clearly in the direction of human progress,

and thus it obtained general acceptance, yet only on the eve of the catastrophe that ruined it. Dr. Wolf has set forth clearly and shrewdly, with occasional vivid and apt expressions, the diplomatic episodes which developed in the process of arrangement and settlement.—A. H. LYBYER.

The publication of the first edition of *A Directory of International Organizations in the Field of Public Administration* (Brussels, pp. xv, 174) is a pioneer enterprise of capital importance to all social investigators whose range of operations extends beyond national horizons. This directory is the product of two years of hard, careful, and systematic effort on the part of the Joint Committee on Planning and Coöperation of the International Institute of Administrative Sciences and the International Union of Local Authorities—a committee whose inspiration was largely American, or, to speak in more specific terms, Mr. Louis Brownlow's. To Professor Rowland Egger of Virginia, who acted as field secretary of the committee, must go the major share of credit for compiling so difficult and valuable a directory as this. Its usefulness is enhanced by the broad definition which is given to the "field of public administration." The volume lists 205 different organizations whose activities may be classified under 50 different heads, including private and mixed, as well as wholly official, bodies. Under the entry for each organization appears a concise statement giving the date when it was founded, the address of its headquarters, the nature of its membership and affiliations, its annual budget, the size of its secretariat and library, and a list of its activities and publications. Without desiring in any way to detract from the admirable skill with which the directory is set up, this reviewer would venture to suggest that, for students of international relations at least, the next edition might be improved if two additional items were included, viz., (1) the geographical distribution of membership (as between Europe, America, the Great Powers, etc.), and (2) the price of the major (especially periodical) publications of those organizations which exact a charge for such documents. The directory may be obtained in this country from Public Administration Service, 850 East 58th Street, Chicago, Illinois (price, \$1.50).—WALTER R. SHARP.

The Royal Institute of International Affairs deserves congratulations upon inaugurating a series of special studies of crucial contemporary questions by bringing to publication Ian F. D. Morrow's comprehensive, deep-probing work on *The Peace Settlement in the German-Polish Borderlands* (Oxford University Press, pp. xiv, 558). Mr. Morrow has elected to study present-day conditions in the territories once forming the historic, mediæval *Ordensstaat*. The volume is therefore appropriately divided into an historical introduction concerning the Eastern Marches, followed by detailed discussions of the problems of Danzig, the Corridor and East

Prussia, and Memel, followed further by an appraisal of the situation of these areas as affected by the policies and diplomacy of the Third Reich. The author has not only ransacked the source materials from Polish and German sides, but has evaluated with a high degree of acumen the abundant controversial literature. As regards Danzig, he concludes that "the forcible separation of the Germans in Danzig from their German fatherland has not served any useful purpose" (p. 180). In East Prussia, Morrow finds "the two forces of national sentiment and [Junker] class self-interest combined to give the economic plight of the *Ostmark* an importance that it might not otherwise have achieved in German national life" (p. 418). In dealing with Memel, Morrow's work is far from being equally objective. He writes in large part from secondary and one-sided sources, ignoring much of the abundant literature—Lithuanian and foreign—on the subject, and revealing a marked anti-Lithuanian bias. While exhibiting considerable solicitude for Poland's claims to Memel, he shares Nazi horror at the asserted excesses of Lithuanian judicial procedure. This confusion of mote and beam is indicative of Morrow's general perspective when dealing with Lithuania. The author voices regret that "those members of the Paris Peace Conference charged with the responsible duty of drafting the treaties did not bring to their work the prudent disbelief in the essential willingness of races to coöperate and to compromise which would have caused them to give greater precision to treaty provisions" (p. 492). Clear drafting would not, of course, have obviated, but might have minimized, treaty provisions as the *foci* of racial conflicts. The volume closes on a note of profound pessimism.—MALBONE W. GRAHAM.

The publication of Manley O. Hudson's *Cases and Other Materials on International Law* and E. D. Dickinson's *Law of Nations* in 1929 marked the beginning of a new tendency in the teaching of the subject. Up to that time, the emphasis upon Anglo-American practice, as revealed in judicial decisions, was almost exclusive, and broad training in the general principles of international law was subordinated to the special needs of future practitioners. In the preface to the first edition of his case-book, Professor (now Judge) Hudson called attention to the necessity of including "cases decided by tribunals bound to apply the general law of nations as distinguished from those parts of it which may have been received into the law of a single nation." In the second edition (West Publishing Co., pp. xl, 1440), he preserves the broad international approach which characterized the first, and adds to his wide selection from the decisions of international and continental European tribunals, and from treaties and national legislation. A new section on "The Law of the Society of Nations" (pp. 1-19) contains well-chosen excerpts from the

writings of the classical jurists and from such contemporaries as Brierly, Scelle, and Kelsen. The introductory bibliographical section is made more useful through the classification of its items under the headings of "Bibliographies," "Cyclopedias and Digests," "Collections of Cases and Reports," etc. The whole is an abridged *Corpus Juris Gentium*, the importance of which, as a work of international documentation, exceeds its high value as a teaching tool. It adds to the heavy debt which the entire profession of international law already owed to Professor Hudson's untiring industry and initiative.—LAWRENCE PREUSS.

The general theme of the Sixth Conference of the Institute of Pacific Relations, held in Yosemite National Park in August, 1936, was "Aims and Results of Social and Economic Policies in the Pacific Countries," the subject being chosen in recognition of the well-known fact that policies adopted for purely domestic purposes often affect the fortunes of other peoples and even produce complications and tensions in international relations. Among council or secretariat papers prepared for the Conference in pursuance of the plan, and now published by one agency or another, are: E. Raikhman and B. Vvedensky, *The Economic Development of the Soviet Far East* (U.S.S.R. Council, Institute of Pacific Relations, pp. 50); C. M. Chang, *A New Government for Rural China* (China Institute of Pacific Relations, pp. 51); John R. Stewart, *Manchuria Since 1931* (New York: Institute of Pacific Relations, pp. 53); Quincy Wright, *Diplomatic Machinery in the Pacific Area* (New York: Institute of Pacific Relations, pp. 41, appendix); and League of Nations, *Memo-randum on the Work of the League in Relation to the Pacific* (Geneva, pp. 102). Professor Wright's pamphlet is in the nature of a description and appraisal of the diplomatic and other international machinery—bilateral, regional, and general—available to the nations of the Pacific area for the peaceful adjustment of disputes, with a summary of the actual handling of thirty-three serious disputes that have arisen in that area since 1918. The opinion is expressed that there is now no lack of machinery, that the addition of new treaties and new procedures might "weaken rather than strengthen the existing system," and that what is chiefly required is "more determination on the part of public opinion" to make present agencies and procedures actually work. The League of Nations publication listed has to do, not with such matters as the Japanese advance in China, but with technical coöperation, communications and transit, health, narcotics, and similar subjects.—F. A. O.

One of the most valuable of the publications of the Hoover War Library at Stanford University is *The Treaty of St. Germain; A Documentary History of Its Territorial and Political Clauses* (Stanford University Press, pp. xxx, 712), edited by Nina Almond and Ralph Haswell Lutz. In this

volume the editors have included 348 documents and four maps relating to the Treaty of St. Germain, selected from some 35 different sources. These documents are classified and arranged in seven chapters in such a way as to show, first, the chronology of the treaty negotiations, and, secondly, the development of the negotiations and decisions that brought about the final arrangements with respect to Austria. In view of the unique position of Austria in relation to the World War and the numerous complex problems that arose out of the disruption of the Austro-Hungarian monarchy, these documents necessarily deal with and throw considerable fresh light on a variety of special problems as well, such as the League of Nations, the protection of minorities, plebiscites, nationality, mandates, the status of succession states, and even on problems apparently so remote from Austria as Egypt, Morocco, Siam, and China. The editors have written a brief introductory note to each group of documents, and a longer introductory chapter in which they describe and clarify the somewhat intricate organization and methods of the Peace Conference. They also provide in this chapter an excellent bibliographical survey which fully explains the confusing variety of minutes and records used by the different groups and delegations of the Peace Conference. The documents are carefully annotated, and a complete table of contents and index are added, contributing materially to the usefulness of the volume. Altogether, the collection is a notable one, representing the most diligent research by the editors, and including probably all the documents of any importance that relate to the conclusion of the Austrian treaty. The volume is so excellent and so useful that one can only look forward to the early publication of similar collections for the other peace treaties.—CLARENCE A. BERDAHL.

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In an earlier volume entitled *The Banana Empire*, Charles D. Kepner, Jr., and J. H. Soothill reviewed the development of the great fruit companies, their far-reaching economic control over the resources of many of the Caribbean countries, and the political influence which they have come to exercise there. The analysis showed that the corporations discussed have acted as many similar organizations have done in the United States and elsewhere, but have succeeded in obtaining a much higher degree of influence in local affairs than elsewhere because of the weakness of the local governments. The conclusion was reached that capitalistic organization of the fruit industry had resulted in widespread abuses, and that it should give way to production for profit. In his *Social Aspects of the Banana Industry* (Columbia University Press, pp. 400), Mr. Kepner turns his attention to the social consequences of the development of the banana trade. His chapters are based on research in company reports, public documents of the United States and the Caribbean republics, and

interviews with persons closely connected with the industry. He reviews dispassionately the effects of the fruit industry upon the landholding system, the return to the independent planter, the low wages of the laboring classes, the unsatisfactory health conditions of the plantation areas, the absence of social security, and the efforts of the laborers through organization to better their condition. The picture makes a highly unfavorable contrast with what has been won in more industrialized areas. The conclusions reached are that the great companies, although having much to their credit, have not measured up to their social responsibilities. It is argued that the abolition of the capitalistic system is not necessary, but that the corporations should be satisfied with smaller profits, that small landholding should be encouraged, and that promotion of democracy in the Caribbean must depend largely on the development of coöperatives, unions, and social legislation by the Caribbean governments.—CHESTER LLOYD JONES.

The first reaction of the reader to David Harris' *A Diplomatic History of the Balkan Crisis of 1875-1878; the First Year* (Stanford University Press, pp. 474) may be that the author has chosen a well-worn subject. The main outlines of the crisis dealt with have long been known and have been set forth at considerable length in many books. In spite of the many recent studies of the diplomacy leading up to the World War, however, the author has made a real contribution to our knowledge of the first year of the earlier crisis. He has based his work on manuscript material recently made available to scholars by the Haus-, Hof-, and Staatsarchiv at Vienna, the better known correspondence of the Public Record Office, the various series of published diplomatic documents, and the mass of pertinent biographies and memoirs. From these sources he has produced a more skilfully organized, better written, and more detailed account of the first year of the crisis than has yet appeared, so far as the reviewer knows, in any language. The author tells, as he must, a story of failure. The local Turkish officials, the ministers of the Sultan, the consuls of the six Great Powers, and lastly the representatives of five of these Powers failed to prevent the spread of the revolt in Herzegovina to the surrounding states and provinces. The author, however, shows better than anyone else who has written upon the subject the confusing and complicated interplay of conditions, events, personalities, and diplomatic measures. He presumably plans to finish the story in later volumes.—C. P. HIGBY.

Sustained interest in the subject of immigration—especially its racial aspects—is indicated by the appearance of Rodman W. Paul's *The Abrogation of the Gentlemen's Agreement* (Harvard Phi Beta Kappa Society, pp. xiii, 117), prize essay for 1936. In this small attractively bound monograph, the author presents a succinct, highly interesting, and valu-

able "thumb-nail" study of the legislative background of the "ineligible to citizenship" excluding clause in the Immigration Act of 1924, with particular reference to the Japanese. He traces the origin and operation of the famous so-called "Gentlemen's Agreement" of 1907-08 between Theodore Roosevelt and Japan, regulating the issuance by the Japanese government of passports to the continental United States for Japanese non-laborers and certain classes of laborers, and discusses the reaction of various leaders in Congress to the celebrated "grave consequences" phrase in Ambassador Hanihara's protest to Secretary Hughes. A brief, helpful bibliography appears; and acknowledgment is made of information and other assistance on the diplomatic aspects of the problem given by officials of the Department of State and of the Consulate-General of Japan at New York City.—HENRY B. HAZARD.

The British Year Book of International Law, 1936 (Oxford University Press, pp. 260) maintains the high standards established in the past sixteen years. A fact important for the political scientist is that this publication deals with matters not confined to international law in the narrow legalistic sense. The feature articles are noteworthy because of their emphasis upon problems of pressing importance, which are approached in a spirit of statesmanship rather than of a practicing attorney. This is not to imply that the journal lacks material valuable for him who seeks positive law. Summaries of cases before international tribunals and decisions of English courts are presented, and a comprehensive review of books and periodical literature offers assistance to those engaged in research in a field in which important publications are scattered over the whole world. A bibliographical section, arranged topically, cites articles in twenty periodicals. Persons interested in international government will find articles by three of the leading English authorities on international law, dealing with "The Covenant as the 'Higher Law'," "Sanctions Under the Covenant," and "Collective Security."—CHESNEY HILL.

MISCELLANEOUS

Two readable introductions to economic history appear in *American Economic Development* (Thomas Nelson and Sons, pp. 448), by A. M. Sakolski and Myron L. Hoch of the College of the City of New York, and *An Economic History of the British Isles* (F. S. Crofts and Company, pp. 391), by Arthur Birnie of the University of Edinburgh. Following a brief introduction on "The Economic Interpretation of History," Messrs. Sakolski and Hoch carry their story from the European background of American economic life to the problem of control of business in the present. Their treatment is intentionally topical rather than periodic, with the idea of emphasizing significant economic events. The result is that,

in spite of a good chapter on "The Constitution and American Economic Life," the book suffers from lack of integration of the economic with the political and social development of the country. The authors discuss territory, population, transportation, natural resources, agriculture, manufacturing, money and banking, labor, shipping, and concentration, in the order named. Mr. Birnie follows a chronological course, dividing his treatment into four periods ranging from pre-historic to modern times. Within each period, there is a somewhat topical treatment. Book II, on the period from the eleventh to the sixteenth century, covers feudalism and the manor, the decay of villeinage, commerce and towns, industry and craft guilds, economic opinion of the Middle Ages, money and public finance, state and economic regulation. Special chapters deal with Scotland, Wales, and Ireland. Some of these topics recur in the next two sections, but there are also chapters on the mercantile system, industrial revolution, agrarian revolution, rise and decline of free trade, *laissez faire*, and socialism. Something of the social life and thought contemporary with the economic development, including government activities, is woven into the economic story. Mr. Birnie briefly and clearly defines many of the unfamiliar terms which an American student will find in English economic history.—HARVEY PINNEY.

Old Wires and New Waves (D. Appleton-Century Co., pp. 548), by Alvin F. Harlow, is an interesting account of the development of telegraphy and telephony, by wire and radio, in the United States. The approach is through the principal inventions in the respective fields, followed by a description of the activities of the important companies exploiting these inventions. The descriptions are full for the early period of development, meagre for the succeeding years, and somewhat better for the recent past. This process weights the book heavily in favor of the telegraph as against telephony and broadcasting. Problems of regulation are largely ignored. The book offers little for persons interested in international electrical communications or in electrical communications in foreign countries. The author has written in an entertaining style enlivened with anecdotes, and has produced a book which will be useful to persons who desire a sketch of the rise of the present American communication systems. It does not fill the need for a really adequate description of the rise and present position of electrical communications in the United States; but that need cannot be filled within the compass of a single book of the modest proportions of that here considered.—IRVIN STEWART.

Electricity for Use or for Profit (Harper and Brothers, pp. x, 211), by Bernard Ostrolenk, is an effort to indicate the importance of cheap power in promoting a higher standard of living. To advance the cause of cheap

electricity, the author strongly champions the use of the federal "yard-stick." If this policy fails, "public ownership remains as the only alternative." To prove this thesis, Mr. Ostrolenk has drawn heavily upon the well known documents of the Federal Trade Commission, studies of the Federal Power Commission, investigations of Congress and the New York legislature, and the reports of the New York State Power Authority. The volume would have more appeal for the student of government if the author had analyzed some of the arguments advanced by opponents of the "yard-stick" principle. The absence of references to the mass of anti-yard-stick literature definitely weakens the author's position.—CHARLES C. ROHLFING.

The Nationalizing of Business, 1878-1898 (Macmillan Co. pp. 313), by Ida M. Tarbell, is a carefully-planned, analytical study of an exceedingly important phase of the industrial history of the United States. Such subjects as the consolidation of national communications, the development of the use of electricity in industry, the formation of industrial trusts, and the organization of farmers and of labor in industry are treated in an interesting manner without the loss of factual details and without bias. The author has made careful and extensive use of a wide variety of sources, including her own work on the Standard Oil Company, and has, in her concluding chapter, presented a critical analysis of these sources.—DANIEL B. CARROLL.

A Handbook of Latin-American Studies (Harvard University Press, pp. xv, 250), edited by Dr. Lewis Hanke, assisted by sixteen "contributing editors," is a new and important milestone in the development of Latin-American bibliography. Some 2,350 items of all sorts, published in 1935, many with a brief critical evaluation, are included. The fields covered are anthropology and archaeology, economics, geography, history, law, and literature; comparatively few items deal with government and politics. This attractive and serviceable volume is designed as the first of a series of annual bibliographies.—RUSSELL H. FITZGIBBON.

Under the editorship of G. Lloyd Wilson, Vol. 187 (September, 1936) of the *Annals of the American Academy of Political and Social Science* (pp. 206) is devoted to the general subject of "Railroads and Government." Seven out of a total of twenty-seven articles deal with railroad problems in the United States, besides six others treating of various phases of the issue of government ownership and operation. In a further group will be found eight papers relating to railways in Great Britain, France, Canada, and Mexico. Major interest attaches, perhaps, to discussions of the Wheeler-Eastman government ownership plan by the editor, G. Lloyd Wilson, and Henry A. Palmer.

RECENT PUBLICATIONS OF POLITICAL INTEREST BOOKS AND PERIODICALS

CHARLES S. HYNEMAN

University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

Books

Bartholomew, Paul C. A manual of American government. Pp. 131. Minneapolis: Burgess Pub. Co. 1936.

Bates, Ernest Sutherland. The story of the supreme court. Pp. 377. Indianapolis: Bobbs-Merrill. 1936.

Buehler, Ezra Christian, comp. Should the government own and operate electric utilities? Pp. 356. N. Y.: Noble & Noble. 1936.

Cahn, Frances, and *Bary, Valeska.* Welfare activities of federal, state, and local governments in California, 1850-1934. Pp. 446. Berkeley (Calif.): Univ. of Calif. Press. 1936.

Carnes, Cecil. John L. Lewis, leader of labor. Pp. 341. N. Y.: Robert Speller. 1936.

Carr, Robert K. Democracy and the supreme court. Pp. 142. Norman (Okla.): Univ. of Okla. Press. 1936.

Cohn, David Lewis. Picking America's pockets; the story of the costs and consequences of our tariff policy. Pp. 270. N. Y.: Harper. 1936.

Commons, John Rogers, and *Andrews, John Bertram.* Principles of labor legislation. 4th ed. Pp. 624. N. Y.: Harper. 1936.

Council of State Governments. Proceedings of the council of state governments' interstate commission on social security, June 26-27, 1936. Pp. 17. Chicago: Council of State Govts. 1936.

———. An abridged transcript of the second general assembly of commissioners on interstate cooperation, April 17-18, 1936. Pp. 80. Chicago: Council of State Govts. 1936.

Crow, William Henry, and *Greene, U. S.* Planning for tax economy. Pp. 409. N. Y.: Wildrep-Tilson. 1936.

Dickinson, Frank G., and *Eakin, Franzy.* A balance sheet of the nation's economy. Pp. 35. (Univ. of Ill. Bull., vol. 34, no. 25.) Urbana (Ill.): Univ. of Ill. 1936.

Gayer, Arthur D. Public works and unemployment relief in the United States. Pp. 44. N. Y.: Am. Council, Inst. of Pacific Rels. 1936.

Griswold, John A. The history of the federal reserve bank of Chicago. Pp. 247. St. Louis: Author. 1936.

Harr, Luther Armstrong, and *Harris, W. Carlton.* Banking theory and practice. Pp. 627. N. Y.: McGraw-Hill. 1936.

Hariman, Siegfried F. Government and the public utilities. Pp. 46. Charlottesville (Va.): Univ. of Va. 1936. *

Hughes, Charles Evans. The supreme court of the United States; its foundation, methods, and achievements. Pp. 276. Garden City (N. Y.): Garden City Pub. Co. 1936.

Kohler, Max James. Immigration and aliens in the United States. Pp. 469. N. Y.: Bloch Pub. Co. 1936.

Kreps, Theodore V. Business and government under the national recovery administration. Pp. 46. N. Y.: Am. Council, Inst. of Pacific Rels. 1936.

Krieger, Heinrich. Das Rassenrecht in den Vereinigten Staaten. Pp. 361. Berlin: Junker & Dünhaupt. 1936.

Liquor Control Committee. The problem of liquor control in Illinois. Pp. 13. Chicago: City Club of Chicago. 1936.

Mason, Alpheus Thomas. Brandeis and the modern state. Pp. 263. Wash.: Nat. Home Lib. Found. 1936.

Meriam, Lewis. Public service and special training. Pp. 92. Chicago: Univ. of Chicago Press. 1936.

Mitchell, Ewing Young. Kicked in and kicked out of the president's little cabinet. Pp. 383. Wash.: Andrew Jackson Press. 1936.

Myers, Gustavus. History of the great American fortunes. Pp. 732. N. Y.: Modern Lib. 1936.

Myres, S. D., Jr. and Burdine, J. Alton. Governmental reform in Texas. Pp. 49. (Arnold Foundation Studies in Public Affairs. Vol. 5, no. 1.) Dallas (Tex.): Southern Methodist Univ. 1936.

Nevins, Allan. Hamilton Fish; the inner history of the Grant administration. Pp. 953. N. Y.: Dodd, Mead. 1936.

Partridge, Bellamy. The Roosevelt family in America; an imperial saga. Pp. 325. N. Y.: Hillman-Curl. 1936.

Providence Council of Social Agencies. A study of families on relief in Providence, R. I. Pp. 28 (mimeo.). Providence: Providence Council of Social Agencies. 1936.

Radice, E. A. Fundamental issues in the United States; a brief study of constitutional and administrative problems. Pp. 74. London: Oxford Univ. Press. 1936.

Shirras, George Findlay. Science of public finance. 3rd ed.; 2 vols. Pp. 1212. N. Y.: Macmillan. 1936.

Stamp, Josiah Charles. The fundamental principles of taxation in the light of modern developments. Pp. 233. N. Y.: Macmillan. 1936.

Starr, Leon. Social welfare and the law in New York; a handbook for welfare administrators, social workers, and investigators. Pp. 43. N. Y.: Law Compiler's Pub. Co. 1936.

Weigel, John C. Shaping the social conscience of Illinois. Pp. 44. No imprint.

Wells, Evelyn. Fremont older. Pp. 418. N. Y.: Appleton-Century. 1936.

Wilman, Shepherd L. Visual outline of American government. N. Y.: Longmans. 1936.

Wolman, Leo. Ebb and flow in trade unionism. Pp. 266. N. Y.: Nat. Bur. of Econ. Research. 1936.

Woodard, Florence May. The town proprietors in Vermont: the New England town proprietorship in decline. Pp. 163. N. Y.: Columbia Univ. Press. 1936.

Articles

Administration. Recent trends in public service training. *Herman Kehrli* and *W. C. Hyde.* A geological department for Oregon and its value to the people. *H. F. Byram.* History of state administrative reorganization in Oregon. *Herman Kehrli* and *Morris S. Isseks.* Commonwealth Rev. May-July, 1936.

———. Organization of the executive branch of the national government of the United States. *L. F. Schmeckebier.* Distinguishing administrative aspects of the farm credit administration. *Herbert Emmerich.* Am. Pol. Sci. Rev. Oct., Dec., 1936.

———. America confronts bureaucracy. *George R. Farnum.* Law Society Jour. Nov., 1936.

———. Social perspective in the public service. *Hollis R. Thompson.* Pub. Management. Nov., 1936.

- . Merit marches on. *Robert L. Johnson*. Scribner's. Dec., 1936.
- Administrative Law. Administrative adjudication; an analysis. *Charles S. Hyneman*. Pol. Sci. Quar. Sept., Dec., 1936.
- . Judicial review of rate orders of administrative boards: a reëxamination. *Harvard Law Rev.* Nov., 1936.
- . Conditional privilege—candidates for office. *Robert E. Russell*. Jour. Bar Assoc. of Kan. Nov., 1936.
- . The origin of the rule-making power and its exercise by legislatures. *George Grayson Tyler*. Am. Bar Assoc. Jour. Nov., 1936.
- . Workmen's compensation act—status of juror under—distinction between public officer and employee. *Josephine H. Klein*. Boston Univ. Law Rev. Nov., 1936.
- Administrative law—Johnson act—jurisdiction of federal courts to grant injunctions against enforcement of rate orders of state commissions. *Donald L. Quaiße*. Mich. Law Rev. Dec., 1936.
- . The national labor relations board—decisions of its first year. *Leon M. Despres* and *Meyer J. Myer*. Univ. of Chicago Law Rev. Dec., 1936.
- . The inquisitorial powers of the national labor relations board. *Walter Freedman*. Wash. Univ. Law Quar. Dec., 1936.
- . Utilities commissions as expert courts. *Frank W. Hanft*. N. C. Law Rev. Dec., 1936.
- . Procedure in federal tax litigation. *H. T. Reiling*. Tax Mag. Oct., 1936.
- . Administrative Court. Sailing close to the wind, or the need for a federal administrative court. *O. R. McGuire*. Am. Bar Assoc. Dec., 1936.
- . The proposed United States administrative court. *Robert M. Cooper*. Mich. Law Rev. Dec., 1936.
- Agriculture and Land Policy. Land tenure. *Ralph Borsodi*. Am. Rev. Oct., 1936.
- . Agricultural adjustment and marketing control. *Yale Law Jour.* Nov., 1936.
- . Research program in relation to economic planning for agriculture. *C. O. Brannen*. Southwestern Soc. Sci. Quar. Dec., 1936.
- Aliens. Aliens and alien-baiters. *Louis Adamic*. Harper's. Nov., 1936.
- . Cultural determinants of naturalization. *William S. Bernard*. Am. Soc. Rev. Dec., 1936.
- Banking. Banking under the federal deposit insurance corporation. *Leo T. Crowley*. Recent political and economic aspects of banking. *George V. McLaughlin*. Bankers' Mag. Nov., 1936.
- Bankruptcy. Aspects of corporate reorganization under section 77-B of the bankruptcy act. *Theodore McC. Marsh*. Univ. of Newark Law Rev. May, 1936.
- Communications. Basis for regulating amateur radio. *J. Warren Wright*. Air Law Rev. Apr., 1936.
- . The \$1,150,000 phone probe up to date. *R. C. Davies*. Pub. Util. Fort. Nov. 5, 1936.
- Constitutional Law. Judicial liberalism. *Fletcher Riley*. Neb. Law Bull. July, 1936.
- . New chapters in the history of the courts and social legislation. *Grace Abbott* and *S. P. Breckinridge*. Soc. Service Rev. Sept., 1936.
- . Constitution and public welfare. *Walton H. Hamilton*. Am. Labor Legis. Rev. Sept., 1936.
- . The myth of constitutional absolutism. *T. Swann Harding*. Jour. Soc. Philos. Oct., 1936.

- . Constitutional law—termination of treaties. *C. R. H. Mich. Law Rev.* Nov., 1936.
- . Some proposals for altering judicial review. *H. L. McBain. Constitutional law—statutory price-fixing of milk. Olin E. Neidlinger.* Boston Univ. Law Rev. Nov., 1936.
- . Recent proposals to amend the constitution of the United States. *Jacob Tanger.* Temple Law Quar. Nov., 1936.
- . Constitutional issues in the supreme court, 1935 term. *Osmond K. Fraenkel.* Pa. Law Rev. Nov., 1936.
- . From rule to discretion. *J. Roland Pennock.* Constitutional law—regulation of court procedure, pleading, and practice by rules of court. Georgetown Law Jour. Nov., 1936.
- . The constitution as instrument and as symbol. *Edward S. Corwin.* Am. Pol. Sci. Rev. Dec., 1936.
- . Irreparable injury in constitutional cases. *Yale Law Jour.* Dec., 1936.
- . Justiciability. *Edwin Borchard.* Univ. of Chicago Law Rev. Dec., 1936.
- . Coal Case. The Hoosac mills case and our founding fathers. *John W. Brabner-Smith.* Georgetown Law Jour. Nov., 1936.
- . The Guffey coal bill—powers of Congress—general welfare—interstate commerce. *John Quattrocchi, Jr.* Boston Univ. Law Rev. Nov., 1936.
- . Production and commerce among the states: *Carter v. Carter Coal Co.* Harvard Law Rev. Dec., 1936.
- . Labor. Constitutional law—railroad retirement acts. Georgetown Law Jour. Nov., 1936.
- . Minimum wage legislation and litigation. *John E. Hannigan.* Constitutional law—minimum wage legislation. *Burton A. Finberg.* Boston Univ. Law Rev. Nov., 1936.
- . A supreme court majority? *Irving Dilliard.* Harper's. Nov., 1936.
- . Constitutionality of the national labor relations acts. Univ. of Chicago Law Rev. Dec., 1936.
- . Personal Guarantees. Constitutional law—freedom of the press. *Hyman C. Silverstein.* Boston Univ. Law Rev. Nov., 1936.
- . Searches and seizures—right of an individual to force the return of goods seized and held by police officials. *David Dow.* Mich. Law Rev. Dec., 1936.
- . Social Security. Some observations on the constitutionality of the federal and state social securities program. *Betty E. Seidl.* John Marshall Law Quar. Sept., 1936.
- . Social security and constitutional reform. *Bruce R. Trimble.* Temple Law Quar. Nov., 1936.
- . Constitutional aspects of the state unemployment insurance law. *Henry Epstein and John C. Crary, Jr.* N. Y. State Bar Assoc. Bull. Dec., 1936.
- . State. The item veto in the American constitutional system. *V. L. W.* Georgetown Law Jour. Nov., 1936.
- . The constitutional questions raised by the flag salute and teachers' test oath in Massachusetts. *G. K. Gardner and C. D. Post.* Double jeopardy in Massachusetts. *E. M. Dangel.* Boston Univ. Law Rev. Nov., 1936.
- . Special legislation: another twilight zone. *Frank E. Horack.* Ind. Law Jour. Dec., 1936.
- . Taxation. The intergovernmental problem in taxation of officers and securities. *William Miller.* Legal Notes on Local Govt. July, 1936.
- . State taxation of national bank shares owned by reconstruction finance corporation. *J. F. W.* Georgetown Law Jour. Nov., 1936.

- . State sales taxation and the commerce clause. *Thomas C. Lavery and Thomas W. Maxson*. Univ. of Cincinnati Law Rev. Nov., 1936.
- . Corporate taxpayers and the equal protection clause. *John B. Sholley*. Ill. Law Rev. Dec., 1936.
- Debts. A formula for limiting state and local debts. *B. U. Ratchford*. Quar. Jour. of Econ. Nov., 1936.
- . Pledged revenue for government bonds. *Raymond W. Coleman*. Am. Econ. Rev. Dec., 1936.
- Education. Towards centralization of educational control in the state of Washington. *O. F. Hite*. Educ. Admin. and Supervision. Oct., 1936.
- Highways. The motorist girds for war. *Wilburn Cartwright*. Scribner's. Dec., 1936.
- . Financial protection for the motor accident victim. *Symposium*. Law and Contemp. Probs. Oct., 1936.
- Housing. A challenge to big business. *William Feather*. Atlantic. Nov., 1936.
- . The small home owner. *Albert Handy*. Current Hist. Nov., 1936.
- . Low-cost FHA houses. *George R. Smith*. Bankers' Mag. Dec., 1936.
- Interstate Relations. Interpretation of New York-New Jersey agreements of 1834 and 1921. *Henry Reiff*. Univ. of Newark Law Rev. May, 1936.
- . Interstate compacts. *Alice Mary Dodd*. U. S. Law Rev. Oct., 1936.
- . The New York extradition act. *Fordham Law Rev. Nov.*, 1936.
- Labor. Holmes and labor law. *Walter Nelles and Samuel Mermin*. N. Y. Univ. Law Quar. Rev. May, 1936.
- . The fiction of peaceful picketing. *Frank E. Cooper*. Mich. Law Rev. Nov., 1936.
- . The question of fixing a minimum wage for American industry. *Symposium*. Cong. Digest. Nov., 1936.
- Legislation. Second session of the seventy-fourth congress. *O. R. Altman*. Conference committees in the Nebraska legislature. *Franklin L. Burdette*. Am. Pol. Sci. Rev. Dec., 1936.
- Liquor Control. The courts and the New York state alcoholic beverage control law. *M. I. Katcher*. N. Y. State Bar Assoc. Bull. Dec., 1936.
- Money. L'argent-métal et la politique du Président Roosevelt. *Simone Tournier*. Rev. Sci. Pol. July-Sept., 1936.
- . Elasticity of the federal reserve note. *Edward C. Simmons*. Am. Econ. Rev. Dec., 1936.
- . Accord on money. *H. Parker Willis*. Current Hist. Dec., 1936.
- Monopoly and Competition. Equity and the restraint of unfair competition. *Ira S. Kolb and William Jaffe*. John Marshall Law Quar. Sept., 1936.
- . Static and dynamic concepts of the law of unfair competition. *Irvin H. Faithchild*. Mo. Law Rev. Nov., 1936.
- . The sugar institute decisions and the anti-trust laws. *James Lawrence Fly*. Yale Law Jour. Dec., 1936.
- . The need for revision of the anti-trust laws. *William J. Donovan and Donald R. Richberg*. Am. Bar Assoc. Jour. Nov., 1936.
- . Fair trade and resale price maintenance. *Shelden D. Elliott*. So. Calif. Law Rev. Nov., 1936.
- . A suggestion for revision of the anti-trust laws. *Donald R. Richberg*. Pa. Law Rev. Nov., 1936.
- . Robinson-Patman Act. Federal trade commission hearings and the

Robinson-Patman act. *Burton A. Zorn and George F. Feldman*. U. S. Law Rev. Nov., 1936.

———. The Robinson-Patman act: some prospective problems of construction and constitutionality. *Harvard Law Rev.* Nov., 1936.

———. Some comments on the price discrimination act. *Lester A. Jaffe*. The scope of federal power over price discrimination. *Edward M. Brown*. Univ. of Cincinnati Law Rev. Nov., 1936.

———. The Robinson-Patman act. *Fortune*. Nov., 1936.

Mortgages. Legislative relief for the mortgage debtor. *M. P. Temple* Law Quar. Nov., 1936.

Navy. In defense of Annapolis. *James R. Browne*. *Forum*. Dec., 1936.

P.W.A. Footlights, federal style. *Irving Kolodin*. *Harper's*. Nov., 1936.

———. Employment created by P.W.A. construction. *Mo. Labor Rev.* Oct., 1936.

Parties and Elections. Recent proposals to reform the electoral college. *Joseph E. Kallenbach*. *Am. Pol. Sci. Rev.* Oct., 1936.

———. The American parties. *Albert L. Hammond*. *Quar. Rev.* Oct., 1936.

———. Ladies in politics. *John G. Ross*. *Forum*. Nov., 1936.

———. The crisis in the socialist party. *William Z. Foster*. The communist party on the results of the elections. *Central Committee, C.P. U.S.A.* The Minnesota farmer-labor victory. *C. A. Hathaway*. The Wisconsin elections and the farmer-labor party movement. *Gene Dennis*. The elections in New York. *I. Amter*. The crisis in the socialist party. *William Z. Foster*. *Communist*. Nov., Dec., 1936.

Personalities. Father Coughlin. *Christopher Hollis*. *Dublin Rev.* Oct., 1936.

———. Lord Guffey of Pennsylvania. *Ray Spigel*. Franklin Delano Roosevelt. *Nicholas Roosevelt*. *Am. Mercury*. Nov., 1936.

———. Pillars of government: Millard E. Tydings. *Oswald G. Villard*. *Forum*. Dec., 1936.

Postal Service. Development of the postal savings system. *Louise Sissman*. *Jour. Am. Statis. Assoc.* Dec., 1936.

Presidential Election. What will happen if Roosevelt wins? *Earl Browder*. If Landon wins? *Norman Thomas*. *Scribner's*. Nov., 1936.

———. Results of the November election. *Robert M. Paige*. *Pub. Management*. Dec., 1936.

———. The presidential election. *D. W. Brogan*. *Fortnightly*. Nov., 1936.

———. Review of current American politics. *Anthony Jenkinson*. *English Rev.* Nov., 1936.

———. A Landon liberal. *Charles P. Taft*. If Roosevelt wins. *Bessie U. Brown*. *Forum*. Nov., 1936.

———. Roosevelt's triumph. *J. A. Hobson*. *Contemp. Rev.* Dec., 1936.

Presidency. "Preserve, protect, and defend—." *Malcom R. Eiselen*. *No. Am. Rev.* Autumn, 1936.

Public Construction. Walsh-Healy government contracts bill. *W.A.W. George*. *town Law Jour.* Nov., 1936.

———. A portfolio of new deal construction. *Fortune*. Nov., 1936.

Public Utilities. Competition in natural gas. *C. E. Troxel*. The model commission an iridescent dream. *W. M. Maupin*. State utility regulation as a regulator sees it. *R. E. Elgen*. *Pub. Util. Fort.* Oct. 22, Nov. 19, 1936.

———. **Government Competition.** The state in the rôle of entrepreneur and manager. *K. A. Doukas*. New deal education on the power problem. *G. E. Doying*. The power pool proposal. *Owen Ely*. The federal power experiments. *Frank F.*

Fowle. The Quoddy folly. *H. E. Riggs*. Back-fire at the world power conference. *Herbert Corey*. Pub. Util. Fort. Nov. 5, 19, Dec. 3, 1936.

———. Holding Companies. Holding company death via the new tax law. *F. E. Seidman*. Pub. Util. Fort. Nov. 22, 1936.

———. Motor Carriers. The motor carrier act of 1935. *James C. Nelson*. Jour. Pol. Econ. Aug., 1936.

Regulation of Business. Federal industrial regulation since the N.R.A. *M. T. Gallagher*. John Marshall Law Quar. Sept., 1936.

———. Direct price fixing. *Jules Backman*. So. Econ. Jour. Oct., 1936.

———. Statutory developments in business corporation law, 1886-1936. *E. Merrick Dodd, Jr.* Harvard Law Rev. Nov., 1936.

Relief. Geography and the relief problem in Texas and Oklahoma. *Meredith F. Burrill*. Southwestern Soc. Sci. Quar. Dec., 1936.

Resettlement. Resettling America. *Blair Bolles*. Am. Mercury. Nov., 1936.

Roosevelt Administration. Enemies of the new deal. *Donald R. Richberg*. Am. Mercury. Nov., 1936.

———. Roosevelt's second term. *John T. Flynn*. Southern Rev. Winter, 1937.

Securities Control. The federal securities act of 1933, as amended. *Arthur D. Chilgren*. Securities and exchange act of 1934 regulating stock exchanges, trading in securities, etc., under administration of the securities and exchange commission. *Jess Halsted*. John Marshall Law Quar. Sept., 1936.

———. The securities act and the promoter. *Brunson MacChesney*. Calif. Law Rev. Nov., 1936.

Social Security. Experience under state old-age pension acts in 1935. Financing old-age assistance in the United States prior to the federal social security act. *Mo. Labor Rev.* Oct., 1936.

———. Public welfare and politics. *Edith Abbott*. Organizing for child welfare grants-in-aid. *Mary Irene Atkinson*. Soc. Service Rev. Sept., 1936.

———. Workmen's compensation for dust diseases. *Columbia Law Rev.* Nov., 1936.

———. Public assistance steps ahead. *Arthur J. Altmeyer*. Unemployment compensation in Pennsylvania. *Smith-Simpson*. Am. Federationist. Nov., Dec., 1936.

———. The social security act and relief. *Grace Abbott*. Univ. of Chicago Law Rev. Dec., 1936.

———. Toward a national economic uniformity minimum under the social security act. *Raymond D. Thomas*. Security to aged, dependent children, blind, and unemployed, with particular reference to the southwestern states. *Emmett S. Redford*. Social work aspects of the social security act. *Frank J. Bruno*. Some special problems of social security in Texas. *Carl M. Rosenquist*. Some practical considerations in social security legislation. *J. Anderson Fitzgerald*. Liberty, opportunity, and security for all. *Arthur B. Adams*. Southwestern Soc. Sci. Quar. Dec., 1936.

———. The new social security law. *Thomas H. Eliot*. N. Y. State Bar Assoc. Bull. Dec., 1936.

———. The pension reserve plan of the social security act. *J. E. Goodbar*. Bankers' Mag. Dec., 1936.

———. Probable effects of the social security act on state and local finances. *Clarence Heer*. Tax Mag. Dec., 1936.

State Government. When New Jersey had two senates. *Milton M. Unger*. N. J. State Bar Assoc. Quar. Oct., 1936.

———. Rhode Island—a city state? *R. M. Goodrich*. Nat. Mun. Rev. Nov., 1936.

T.V.A. Labor relations with the T.V.A. *Stanley Rounds*. Am. Federationist. Nov., 1936.

Taxation. Some aspects of the double-taxation problem. *Carl F. Wehrwein*. Jour. Pol. Econ. Aug., 1936.

———. Federal estate, gift, and business tax laws. *Joseph J. Robinson*. The Illinois inheritance tax law. *James Otis Skinner*. John Marshall Law Quar. Sept., 1936.

———. Taxation of chain retailers in the United States. *F. K. Hardy*. Jour. Comp. Legis. and Int. Law. Nov., 1936.

———. The tax burden of the supreme court, 1935 term. *Charles L. B. Lowndes*. Fordham Law Rev. Nov., 1936.

———. Taxation of undistributed corporate profits. *John B. Martin, Jr.* Mich. Law Rev. Nov., 1936.

———. The federal revenue act of 1936. *D.C. and A.B.G.* Pa. Law Rev. Nov., 1936.

———. The 1936 federal corporate surtax. *M. H. Miller*. Domicile versus situs as the basis of tax jurisdiction. *R. C. Brown*. One result of the dollar and one-half tax law. *H. T. Ice* and *M. F. Landgraf*. Ind. Law Jour. Oct., Dec., 1936.

———. The undistributed profits tax and the investor. *Benjamin Graham*. The surtax on undistributed profits of corporations. *Homer Hendricks*. Options and sales contracts in taxation. Yale Law Jour. Nov., Dec., 1936.

———. Collecting the revenue: current developments. *E. P. King*. A practical philosophy of tax collection. *E. B. Prettyman*. Corporation taxes under the revenue act of 1936. *F. X. Mannix*. Taxes: their relation to the business cycle. *Erwin Graue*. The "windfall" tax levy. *C. W. Dudley*. Tax refunds in Illinois. *L. R. Bloomenthal*. Should the undistributed profits tax be repealed. *D. W. Gilbert*. State tax legislation during 1936. *R. E. Manning*. The field of public finance and taxation. *E. S. Todd*. Tax Mag. Oct., Nov., Dec., 1936.

———. Processing tax on wheat. *M. Slade Kendrick*. Direct taxes by income classes. *Maxine Yaple*. Am. Econ. Rev. Dec., 1936.

———. The surtax on undistributed profits. Harvard Law Rev. Dec., 1936.

———. Corporate policy under the surtax on undistributed profits. *Christian B. Peper*. Wash. Univ. Law Quar. Dec., 1936.

Territories. Puerto Rico: old woman in a shoe. *Eric M. Matsner*. No. Am. Rev. Autumn, 1936.

Transportation. The commodities clause; its application to industrial railways. Harvard Law Rev. Dec., 1936.

———. The commodities clause and the regulation of industrial railroads. Yale Law Jour. Dec., 1936.

FOREIGN AND COMPARATIVE GOVERNMENT

Books

Abend, Hallett, and Billingham, Anthony J. Can China survive? Pp. 326. N. Y.: Ives Washburn. 1936.

Bailey, Richard. The government of Britain; a simple introductory survey. Pp. 151. London: Pitman. 1936.

Bainville, Jacques. The French republic, 1870-1935. Pp. 254. London: Cape. 1936.

Brinton, Clarence Crane. The lives of Talleyrand. Pp. 316. N. Y.: Norton. 1936.

Bunyan, John. Intervention, civil war, and communism in Russia; April-December, 1918. Pp. 610. Baltimore: Johns Hopkins Press. 1936.

- Caillaux, Petit, Chardon.* La réforme de l'état. Pp. 292. Paris: F. Alcan. 1936.
- Chernov, Victor.* The great Russian revolution. Pp. 474. New Haven (Conn.): Yale Univ. Press. 1936.
- Chi, Ch' Ao-Ting.* Key economic areas in Chinese history. Pp. 168. N. Y.: Peter Smith. 1936.
- Debeyre, G.* La responsabilité de la puissance publique en France et en Belgique. Pp. 375. Paris: Sirey. 1936.
- Dimock, Marshall E.* Modern politics and administration. N. Y.: Am. Book Co. 1936.
- Estève, J.* Le destin des parlements. Pp. 326. Paris: Sirey. 1936.
- Friedrich, Carl Joachim.* Constitutional government and politics. N. Y.: Harper's. 1936.
- Gaus, John Merriman, and Others.* The frontiers of public administration. Pp. 155. Chicago: Univ. of Chicago Press. 1936.
- Huck, Hans Joachim.* Grundrechte im neuen deutschen Reich. Pp. 120. Halle: Hall. 1936.
- Hübner, Kurt.* Die Entstehung einer Reichskriminalpolizei. Pp. 47. Freiburg: Kehler. 1936.
- Jèze, G.* Cours de finances publiques, 1935-1936. Pp. 320. Paris: Libr. gén. de Droit et de Juris. 1936.
- Jèze, G.* Les principes généraux du droit administratif. Pp. 398. Paris: Libr. gén. de Droit et de Juris. 1936.
- Keith, A. Berriedale.* The privileges and rights of the crown. Pp. 128. London: Pearson. 1936.
- Keith, A. Berriedale.* The king and the imperial crown: the powers and duties of his majesty. Pp. 505. London: Longmans. 1936.
- Kreisschrieben des eidgenössischen Justiz- und Polizeidepartementes an die Aufsichtsbehörden für das Zivilstandswesen der Kantone. Pp. 8. Bern: Schweizer. 1936.
- Lueg, Carl.* Der Volksverrat im neuen Strafrecht. Pp. 59. Düsseldorf: Nolte. 1936.
- Machray, Robert.* The Poland of Pilsudski. Pp. 508. London: Allen & Unwin. 1936.
- Maddock, Leslie.* The housing act, 1936. Pp. 185. London: Eyre & Spottiswoode. 1936.
- Mathivon.* Catholicisme, national-socialisme, et concordat du reich. Pp. 234. Paris: Libr. gén. de Droit et de Juris. 1936.
- Mercier, J.* L'oeuvre nationale des loisirs, institution de droit public italien. Pp. 97. Paris: Sirey. 1936.
- Muir, Ramsay.* The record of the national government. Pp. 204. London: Allen & Unwin. 1936.
- Murphy, J. T.* Modern trade unionism; a study of the present tendencies and the future of trade unions in Britain. Pp. 215. London: Routledge. 1936.
- Newsholme, Arthur.* The last thirty years in public health; recollections and reflections on my official and post-official life. Pp. 410. London: Allen & Unwin. 1936.
- Rappard, W. E.* L'individu et l'état dans l'évolution constitutionnelle de la Suisse. Pp. 566. Paris: Sirey. 1936.
- Read, Conyers.* The Tudors; personalities and practical politics in sixteenth century England. Pp. 286. London: Oxford Univ. Press. 1936.
- Reischauer, R. K.* Alien land tenure in Japan. Pp. 134. London: Kegan Paul. 1936.

St.-Johnston, Reginald. Strange places and strange peoples, or life in the colonial service. Pp. 286. London: Hutchinson, 1936.

Salet, Robert. Le contrôle budgétaire. Pp. 330. Paris: Ch. Béranger. 1936.

Schuman, Frederick L. Hitler and the nazi dictatorship. Pp. 544. London: R. Hale & Co., 1936.

Taylor, Thomas Griffith. Environment and nation; geographical factors in the cultural and political history of Europe. Pp. 571. Chicago: Univ. of Chicago Press. 1936.

Violette, Eugene M. English constitutional documents since 1832. Pp. 226. N. Y.: Macmillan. 1936.

Wagner, Hermann. Das Berufsbeamtentum im nationalsozialistischen Reich. Pp. 140. Emsdetten (Westf.): Lechte. 1936.

Werner, A. R. Essai sur la réglementation de la nationalité dans le droit colonial français. Pp. 261. Paris: Sirey. 1936.

Articles

Administration. Where stands public administration? *Sir Gwilym Gibbon* and *E. M. H. Lloyd.* Films in the public service. *John Grierson.* Some of my problems. *R. M. Filmer.* Pub. Admin. Oct., 1936.

———. Better government personnel. *Herman Finer.* Pol. Sci. Quar. Dec., 1936.

———. Government publications: their cost and distribution. *B. M. Headicar.* Nine. Cent. Dec., 1936.

———. Les fonctionnaires dans la nation. *Charles Blondel.* Archives de Philos. du Droit et de Soziol. Jurid. Vol. 6, nos. 1-2. 1936.

Administrative Law. Notes sur la responsabilité de la puissance publique en droit interne. *N. Karadze-Iskrow.* Archives de Philos. du Droit et de Soziol. Jurid. Vol. 6, nos. 1-2. 1936.

———. The common law as a bulwark against executive tyranny. *A. J. Hannan.* Australian Law Jour. Oct. 15, 1936.

Argentina. The Argentine housing commission and its present work. *Juan Ochoa.* Bull. Pan Am. Union. Oct., 1936.

Australia. Possibilities of Australian immigration. *Dorothy Yates.* Empire Rev. Nov., 1936.

———. The population problems of Australia. *F. W. Eggleston.* Pacific Affairs. Dec., 1936.

Austria. The Austrian tragi-comedy. *W. Walter Crotch.* Nat. Rev. Nov., 1936.

Belgium. Belgium's new policy. *Betty Barzin.* Fortnightly. Dec., 1936.

———. Belgium today. *Paul Hymans.* Nine. Cent. Dec., 1936.

British Empire. The statute of Westminster. *Owen Dixon.* Australian Law Jour. Oct. 15, 1936.

———. A comparative study of the anti-trust laws of the British dominions and of their administration. *Philip Strickland.* Jour. Comp. Legis. and Int. Law. Nov., 1936.

———. Imperial economic development. *B. S. B. Stevens.* Int. Affairs. Nov.-Dec., 1936.

Canada. The parlous state of British Columbia. *H. Glynn-Ward.* Nat. Rev. Oct., 1936.

———. Social and other credit in Alberta. *Stephen Leacock.* Fortnightly. Nov., 1936.

———. A history of Canadian nationality. *T. Baty.* Jour. Comp. Legis. and Int. Law. Nov., 1936.

- . Canada's new deal. *G. N. Gordon*. Commercial Law Jour. Nov., 1936.
- China.** The new Chinese monetary system. *Lin Lin*. Int. Law and Rel. Nov. 16, 1936.
- . The powers and the unity of China. *George E. Taylor*. A critical survey of Chinese policy in inner Mongolia. *Chen Hanseng*. The fall of the Manchu dynasty. *John G. Reid*. Pacific Affairs. Dec., 1936.
- Cuba.** La grande industrie, le sucre, d'un petit pays, Cuba. *Patrick Coppinger*. Rev. Sci. Pol. July-Sept., 1936.
- Czechoslovakia.** Czechoslovakia's choice. *Charles Hodges*. Current Hist. Dec., 1936.
- Finland.** The example of Finland. *J. Hampden Jackson*. Fortnightly. Dec., 1936.
- . Sturdy Finland. *Rodger L. Simons*. Current Hist. Dec., 1936.
- France.** The popular front in France: prelude or interlude? *Walter R. Sharp*. Am. Pol. Sci. Rev. Oct., 1936.
- . Révision de la loi du 9 avril 1898 sur les accidents du travail. *D. Chauveau*. Rev. Pol. et Parl. Oct. 10, 1936.
- . Recent French decrees, modification of procedure. *Camille Denoyer*. Jour. Comp. Legis. and Int. Law. Nov., 1936.
- . M. Blum's revolution. *Philip Carr*. Fortnightly Rev. Nov., 1936.
- . France at the crossroads. *John R. Tunis*. Scribner's. Nov., 1936.
- Germany.** Le droit et l'état dans la doctrine nationale-socialiste. *Roger Bonnard*. Rev. Droit Pub. and Sci. Pol. July-Sept. 1936.
- . Die Verfassung der Gemeinde im nationalsozialistischen Staat. *Herbert Krüger*. Zeitschrift f. die gesamte Staatswissenschaft. Vol. 97, no. 1. 1936.
- . The trail of Dr. Schacht. *George Glasgow*. Fortnightly. Oct., 1936.
- . Les autoroutes allemandes. *Claude Vivières*. Rev. Pol. et Parl. Oct. 10, 1936.
- . Germany in August. *T. P. Conwell-Evans*. The German army of 1936. *H. de Watterville*. Nine. Cent. Oct., Nov., 1936.
- . My impressions of Germany. *Allen of Hurtwood*. Contemp. Rev. Nov., 1936.
- . The Nurenberg circus. *Ernest Braun*. Communist. Nov., 1936.
- . The new Germany. *Randolph Hughes*. English Rev. Nov., 1936.
- . Germany tightens her belt. *Cortez Enloe*. Current Hist. Dec., 1936.
- . Commissions of inquiry in Germany. *F. M. Marx*. Am. Pol. Sci. Rev. Dec., 1936.
- Great Britain.** The office of secretary to the treasury. *Dora Mac Clark*. Am. Hist. Rev. Oct., 1936.
- . The summer schools and other educational activities of British socialist groups. *Joseph R. Starr*. Am. Pol. Sci. Rev. Oct., 1936.
- . The special areas. *Cuthbert Headlam*. Quar. Rev. Oct., 1936.
- . Which way, Great Britain? *Reinhold Niebuhr*. Current Hist. Nov., 1936.
- . The peril of the constitution. *Earl of Selborne*. Empire Rev. Nov., 1936.
- . What is Britain's defensive policy? *Norman Angell*. The factory acts. *Gerald Bellhouse*. Workmen's compensation. *Arthur Henderson*. Renew or die! *Leo Chiozza Money*. Nine. Cent. Nov., Dec., 1936.
- . Politics without inspiration. *Lord Ellon*. Fortnightly. Dec., 1936.
- . L'Angleterre réactionnaire. *H. R. G. Greaves*. Rev. Sci. Pol., July-Sept., 1936.
- . The special areas. *H. Powys-Greenwood*. Labour's divided mind. *J. H. Harley*. Contemp. Rev. Nov., Dec., 1936.

Housing. European workers lead the fight for public housing. *Helen Alfred* and *Samuel Middlebrook*. *Am. Federationist*. Dec., 1936.

India. India and the forty hours week. *Homi Mehata*. The rise of labour legislation in India. *Rajani Kanta Das*. *Asiatic Rev.* Oct., 1936.

———. The new constitution for India. *H. McD. Clokie*. *Am. Pol. Sci. Rev.* Dec., 1936.

Ireland. Ireland under "bloody Balfour." *John Marriott*. *Fortnightly*. Dec., 1936.

Italy. The government of Italian East Africa. *H. Arthur Steiner*. *Am. Pol. Sci. Rev.* Oct., 1936.

Jamaica. Parliamentary privilege in Jamaica. *W. L. Burn*. *Jour. Comp. Legis. and Int. Law*. Nov., 1936.

Japan. Japanese managed recovery. *H. V. Hoyt*. *Commonwealth Rev.* May-July, 1936.

———. Japan's educational system. *E. H. Anstice*. The future of parliament in Japan. *Ernest H. Pickering*. *Asiatic Rev.* Oct., 1936.

———. The Japanese cabinet. *Kenneth Colegrove*. *Am. Pol. Sci. Rev.* Oct., 1936.

———. Japan today and tomorrow. *Yusuke Tsurumi*. *Int. Affairs*. Nov.-Dec., 1936.

Mexico. Mexico the incredible. *Maurice Halperin*. *Current Hist.* Nov., 1936.

———. The socialist school in Mexico. *James A. Magner*. *Catholic World*. Dec., 1936.

Money. La dévaluation. *J. F. Compeyrot*. *Rev. Pol. et Parl.* Oct. 10, 1936.

———. L'argent métal en 1936. *E. James*. *L'Egypte Contemp.* May, 1936.

———. Some reflections on the currency position. *George Schuster*. *Nine. Cent.* Nov., 1936.

New Zealand. New Zealand's socialist experiment. *Donald Cowie*. *Fortnightly*. Dec., 1936.

Poland. The turn of the tide in Poland. *W. Walter Crotch*. *Nine. Cent.* Oct., 1936.

———. Polish paradox. *Charles Hodges*. Jews in Poland. *Abraham G. Duker*. *Current Hist.* Nov., Dec., 1936.

———. The Jews in Poland. *Israel Cohen*. *Contemp. Rev.* Dec., 1936.

Rumania. Das Sprachenrecht in Rumänien. *Rudolf Brandsch*. *Zeitschrift f. Völkerrecht*. Vol. 20, no. 3. 1936.

Russia. La réforme constitutionnelle de l'union soviétique. *B. Appert*. *Rev. Sci. Pol.* July-Sept., 1936.

———. Stalin's new purge. *Malcolm Muggeridge*. *Fortnightly*. Oct., 1936.

———. Soviet Russia's means to her end. *Lancelot Lawton*. *Nine. Cent.* Oct., 1936.

———. A survey of soviet finance. *Margaret S. Miller*. *Pub. Admin.* Oct., 1936.

———. The new man in soviet Russia. *Edward Quinn*. *Dublin Rev.* Oct., 1936.

———. The soviets on the threshold of the twentieth year. *M. J. Olgin*. *Communist*. Nov., 1936.

———. The new constitution of the soviet union. *Joseph R. Starr*. *Am. Pol. Sci. Rev.* Dec., 1936.

———. Russia's new constitution. *Samuel S. Shipman*. *Current Hist.* Dec., 1936.

South Africa. The union of the Rhodesias. *C. L. Carbutt*. *Empire Rev.* Oct., 1936.

- . Britain's greatest African problem. *John Harris*. *Contemp. Rev.* Dec., 1936.
- Spain. Les événements d'Espagne. *A. de la Pradelle*. *Rev. Droit Int.* July-Sépt., 1936.
- . The martyrdom of Spain. *A Spanish Correspondent*. Communist operations in Spain, 1931-1936. *G. M. Godden*. *Dublin Rev.* Oct., 1936.
- . Spain from dictatorship to civil war. *Arthur F. Loveday*. *Quar. Rev.* Oct., 1936.
- . Les causes constitutionnelles de la révolution espagnole. *Alcala Zamora*. *Rev. Pol. et Parl.* Oct. 10, 1936.
- . The civil war and after. *William C. Atkinson*. Spain from the inside. *W. Horsfall Carter*. Spanish kaleidoscope: a background. *Walter Starkie*. *Fortnightly*. Oct., Nov., Dec., 1936.
- . Spain in agony. *Megan Laird and Others*. *Atlantic*. Nov., 1936.
- . No surprise in Spain. *Arthur Stanley Riggs*. *Catholic World*. Nov., 1936.
- . Specific features of the Spanish revolution. *M. Ercoli*. *Communist*. Dec., 1936.
- . Spain and humanity. *F. S. Marvin and Lonsdale Ragg*. The Spanish imbroglio. *W. Horsfall Carter*. *Contemp. Rev.* Nov., Dec., 1936.
- . Six and half-a-dozen; or one as bad as the other. *Ian Colvin*. An Irishman in Spain. *Peadar O'Donnell*. *Nine. Cent.* Nov., Dec., 1936.
- . Intervention in Spain. *Ludwig Lore*. The score in Spain. *Ludwig Lore*. How many slain? *Michael Williams*. *Current Hist.* Nov., Dec., 1936.
- Sweden. The incredible Swedes. *Hubert Herring*. *Harper's*. Nov., 1936.
- Taxation. Taxation of savings. *D. H. Macgregor*. *Economica*. Nov., 1936.
- Turkey. Anatolian spring. *W. E. D. Allen*. *Nine. Cent.* Oct., 1936.

INTERNATIONAL RELATIONS

Books

- Annuaire statistique de la société des nations, 1935-1936. Paris: A. Pedone. 1936.
- Baker, Philip Noel*. The private manufacture of armaments. Pp. 274. London: Gollancz. 1936.
- Bardoux, Jacques*. Les soviets contre la France. Pp. 48. Paris: Flammarion Fils. 1936.
- Barrows, Harlan H., and Parker, E. P.* Europe and Asia. 1936 ed. Pp. 236. Newark: Silver, Burdett. 1936.
- Bell, Julian*, ed. We did not fight; 1914-1918 experiences of war registers. Pp. 392. London: Colden-Sanderson. 1936.
- Benson, E. F.* The kaiser and English relations. Pp. 332. London: Longmans. 1936.
- Brailsford, H. N.* Property or peace? Pp. 327. London: Gollancz. 1936.
- Cegla, Wolf W.* Die Bedeutung der allgemeinen Rechtsgrundsätze für die Quellenlehre des Völkerrechts. Pp. 54. Berlin: Triltsch & Huther. 1936.
- Chatterton, E. Keble*. Dardanelles dilemma: the story of the naval operations. Pp. 320. London: Rich & Cowan. 1936.
- Dami, Aldo*. Destin des minorités. Pp. 280. Paris: Nouvelles Editions Latines. 1936.
- Davis, Lord*. Nearing the abyss; the lesson of Ethiopia. Pp. 195. London: Constable. 1936.

Engelbrecht, H. C., and Hanighen, F. C. Merchants of death: a study of the international armament industry. Pp. 312. London: Routledge. 1936.

Gariel, G. Une nouvelle théorie allemande du droit de la guerre maritime. Pp. 231. Paris: Sirey. 1936.

Goiffon, P. Les clauses coloniales dans les accords franco-italiens du 7 janvier 1935. Pp. 210. Paris: Libr. gén. de Droit et de Juris. 1936.

Griffin, Jonathan. Alternative to rearmament. Pp. 215. London: Macmillan. 1936.

Hambro, E. L'exécution des sentences internationales. Pp. 148. Paris: Sirey. 1936.

Henri, Ernst. Hitler over Russia? The communist fight between the fascist and socialist armies. Pp. 340. London: Dent. 1936.

Johannsen, Jens. Die Einrede des nicht erfüllten Vertrages bei Teilleistungen. Pp. 50. Berlin: Triltsch & Huther. 1936.

Kappus, Georg. Der völkerrechtliche Kriegsbegriff in seiner Abgrenzung gegenüber den militärischen Repressalien. Pp. 80. Breslau: M. & H. Marcus. 1936.

Koch-Weser, Volker. Einwirkungen der Regierung der Vereinigten Staaten von Amerika auf die zentral-amerikanischen und westindischen Republiken. Pp. 96. Berlin: G. Fischer. 1936.

Le Fur, Louis. Précis de droit international public. Pp. 605. Paris: Dalloz. 1936.

Michels, Robert. Le boycottage internationale. Pp. 160. Paris: Payot. 1936.

Moskov, Athanase. La garantie internationale en droit des minorités. Pp. 240. Paris: Libr. gén. de Droit et de Juris. 1936.

Pratt, Julius W. The expansionists of 1898; the acquisition of Hawaii and the Spanish islands. Pp. 403. Baltimore: Johns Hopkins Press. 1936.

Rathbone, Irene. They call it peace. Pp. 617. London: Dent. 1936.

Russell, Bertrand. Which way to peace? Pp. 224. London: Joseph. 1936.

Salter, James Arthur. World trade and its future. Pp. 101. Phila.: Univ. of Pa. Press. 1936.

Ulein-Reviczky, A. La nature juridique des clauses territoriales du traité de Trianon. Pp. 256. Paris: A. Pedone. 1936.

Whither Palestine? a statement of facts and of causes of the Arab-Jewish conflict in the Holy Land. Pp. 18. N.Y.: Arab Nat. League. 1936.

Articles

Africa. The problem of European settlement in the Belgian Congo. *Jacques Legouis.* Int. Labour Rev. Oct., 1936.

Air Law. Le régime juridique de l'espace aérien et le développement des lignes aériennes internationales. *G. Goedhuis.* Rev. Droit Int. et Légis. Comp. Vol. 17, no. 2. 1936.

Arabia. Arab empire. *S. A. Mokarzel.* Current Hist. Nov., 1936.

Armament. The future of naval limitation. *Helen Fisher.* For. Policy Rep. Oct. 1, 1936.

Canada. Canada's foreign policy. *André Siegfried.* Fortnightly. Dec., 1936.

Danzig. The needs of Danzig. *David Stephens.* Nine. Cent. Oct., 1936.

Europe. The proposed five-power conference. Austria and the policy of Herr von Schuschnigg. Belgian policy and King Leopold's declaration. *H. L. Bull.* Int. News. Sept. 26, Oct. 24, Nov. 7, 1936.

———. France in the Spanish trouble. *W. Waller Crotch.* Quar. Rev. Oct., 1936.

———. The interplay of forces in Europe. *Augur.* Nat. Rev. Oct., 1936.

- . Italie et Allemagne. *A. E. Guillaume*. *Rev. Pol. et Parl.* Oct. 10, 1936.
- . Will Austria become German? *Elizabeth Wiskemann*. *Fortnightly*. Nov. 1936.
- . Foreign affairs. *Charles Petrie*. *English Rev.* Nov. 1936.
- . Switzerland prepares. *Gordon Rend*. *Current Hist.* Nov., 1936.
- . Austria after the compromise. *Ernest Benedikt*. National-socialist propaganda on the Danish frontier. *Ludwig Stephasius*. Germany and Russia. *George Soloveyichik*. The little entente. *Elizabeth Wiskemann*. *Contemp. Rev.* Nov., Dec. 1936.
- . Europa als Einheit. *Hans-Helmut Dietze*. *Zeitschrift f. Völkerrecht*. Vol. 20, no. 3. 1936.
- Far East. L'extrême-orient et l'apaisement de l'Europe. *V. K. Wellington Koo*. *Rev. Droit Int. Sci. Dip. et Pol.* July-Sept., 1936.
- . Japan and the Philippines. *Willard Price*. *Fortnightly*. Oct., 1936.
- . Neutrality in Asia. *L. E. Tsao*. War and diplomacy over Ili. *Chi Djang*. *Chinese Soc. and Pol. Sci. Rev.* Oct., 1936.
- . Far Eastern issues at the Yosemite conference. *Charles R. Buxton*. *Nine Cent. Nov.*, 1936.
- . The breaking point for Nanking. *Frank H. Hedges*. *Contemp. Rev.* Nov., 1936.
- . Japan and the far east. *H. St. Clair Smallwood*. *Empire Rev.* Nov., 1936.
- . Japanese penetration in southernmost China. *Chen Han-seng*. *Fai Eastern Survey*. Nov. 4, 1936.
- . Soviet policy in the far east. *W. J. Oudendyk*. *Int. Affairs*. Nov.-Dec., 1936.
- . The Yosemite conference and Japan. *Tadao Yamakawa*. Smuggler, soldier, and diplomat. *Haldore Hanson*. The documentation of the Yosemite conference. *Frederick V. Field*. Land and sea in the destiny of Japan. *Owen Lattimore*. *Pacific Affairs*. Dec., 1936.
- Great Britain. Japan, Germany, the soviet, and ourselves. *M. D. Kennedy*. *Empire Rev.* Oct., 1936.
- . The Anglo-Egyptian treaty of alliance. *Arthur Merton*. *Nine Cent.* Oct., 1936.
- . Spain and British policy. *F. A. Voigt*. Britain and the Baltic. *George Soloveyichik*. *Fortnightly*. Oct., Nov., 1936.
- . The British lion and the duce. *E. H. Carr*. *Atlantic*. Nov., 1936.
- Inter-American Relations. Le Panamericanisme au point de vue historique, juridique, et politique. *M. Yepes*. *Rev. Droit Int.* July-Sept., 1936.
- . Peace and the Americas. *Ronald Stuart Kain*. *Current Hist.* Dec., 1936.
- International Law. La cour pénale internationale pour la répression du terrorisme et le problème de la responsabilité internationale des états. *C. Eustathiades*. *Rev. Gén. Droit Int. Pub.* July, 1936.
- . Esquisse d'une histoire littéraire du droit international au moyen âge, du IV^e au XIII^e siècle. *V. E. Hrabar*. Le droit des gens dans les arrêts du grand juge Marshall. *R. Pinto*. Une conception anglaise du droit international. *Rev. Droit Int.* July-Sept., 1936.
- . Contributions of the American judiciary to the maintenance of international law. *Fred K. Nielsen*. *Neb. Law Bull.* Nov., 1936.
- . La structure du droit international privé et ses rapports avec le droit des gens. *S. Randstein*. *Rev. Droit Int. et Légis. Comp.* Vol. 17, no. 2. 1936.

———. War. La radioélectricité en temps de guerre. *Paul de la Pradelle*. Rev. Droit Int. July-Sept., 1936.

———. Der Gebrauch fremder Nationalflaggen im Landkrieg. *Friedrich Grabau*. Zeitschrift f. Völkerrecht. Vol. 20, no. 3. 1936.

International Relations. History text-books as a factor in international relations. Int. Affairs. Nov.-Dec., 1936.

International Trade and Finance. The end of the gold bloc. *B. S. K.* Bull. Int. News. Oct. 10, 1936.

———. Hull trade program. *David H. Popper*. For. Policy Rep. Oct. 15, 1936.

———. The development of foreign capital investments in the Balkans. *Mirko Lamer*. Int. Law and Rels. Oct. 27, 1936.

———. Governmental controls and the theory of international trade and finance. *Charles R. Whittlesey*. Quar. Jour. Econ. Nov., 1936.

———. Banking policy and the balance of international payments. *F. W. Paish*. Economica. Nov., 1936.

———. Foreign trade in the public interest. *Gardner Harding*. Atlantic. Nov., 1936.

———. The gold clause in international loans. *M. Schmitthoff*. Jour. Comp. Legis. and Int. Law. Nov., 1936.

———. Australia's trade war with Japan. *Marc T. Greene*. Fortnightly. Dec., 1936.

———. Some implications of Anglo-Japanese competition. *Barbara Wooten*. Pacific Affairs. Dec., 1936.

League of Nations. Les sanctions et la société des nations. *S. E. Stasys-Lozowski*. La situation internationale et la tâche de la société des nations. *Peter Munch*. La coopération internationale et les principes du pacte de la société des nations. *S. E. S. M. Bruce*. La mise en oeuvre des principes du pacte de la société des nations. *J. M. Cantilo*. Rev. Droit Int. Sci. Dip. et Pol. July-Sept., 1936.

———. The future of the league. *Arthur Willert*. Quar. Rev. Oct., 1936.

———. The future of the league. *E. H. Carr* and *L. P. Jacks*. Fortnightly. Oct., 1936.

———. What Lord Milner said. *Viscountess Manners*. Nat. Rev. Oct., 1936.

———. Reform of the league. *Sir Arthur Salter*. Pol. Quar. Oct.-Dec., 1936.

———. The new league. *Hilaire Belloc*. Am. Rev. Nov., 1936.

———. The league of nations: (1) the British Empire and world peace; (2) Utopia and reality. *Lord Davies* and *F. R. Hely-Hutchinson*. Empire Rev. Nov., 1936.

———. The new phase in international affairs. *Alfred Zimmern*. Keeping the peace. *Charles Mallet*. Contemp. Rev. Nov., Dec., 1936.

———. Reforming the league. *Curt H. Heymann*. Current Hist. Dec., 1936.

———. L'éventuelle réforme de la société des nations: quelques données et suggestions. *Jean Ray*. Rev. Droit Int. et Légis. Comp. Vol. 17, no. 2. 1936.

Mandates. The problem of the mandated territories. *C. Alexander Harris*. Quar. Rev. Oct., 1936.

———. Shall we betray our trust? *Africanus*. Nat. Rev. Nov., 1936.

———. International law and the transfer of mandated territories. *F. Honig*. Jour. Comp. Legis. and Int. Law. Nov., 1936.

Munitions Control. Arms and the state. *J. A. Spender*. Fortnightly. Dec., 1936.

Near East. La convention de Montreux. *C. Colliard*. Rev. Droit Int. July-Sept., 1936.

- . The Dardanelles. *Edward C. McDowell, Jr.* Current Hist. Nov., 1936.
- . Germany and the Balkans. *C. F. Melville.* Nine. Cent. Dec., 1936.
- Neutrality. La portée de la neutralité américaine. *J. Belin.* Rev. Gén. Droit Int. Pub. July, 1936.
- Pacific. Peace on the Pacific. *Carlton Kendall.* Current Hist. Nov., 1936.
- Palestine. Palestine before the commission. *G. T. Garrot.* Pol. Quar. Oct.-Dec., 1936.
- . The twice promised land. *John Brown.* Nat. Rev. Nov., 1936.
- . Deadlock in Palestine. *D. Bourke-Borrowes.* Empire Rev. Nov., 1936.
- . Arab and Jew in the Holy Land. *William Schack.* Forum. Dec., 1936.
- Recognition. Recognition of foreign governments and its effect on private rights. *David Ernest Hudson.* Mo. Law Rev. Nov., 1936.
- . La reconnaissance internationale des nouveaux états et des nouveaux gouvernements. *Arnold Raestad.* Rev. Droit Int. et Légis. Comp. Vol. 17, no. 2. 1936.
- Vatican. The pope gains neutrality. *Robert Wilberforce.* Forum. Nov., 1936.
- War and Peace. L'organisation de la paix. Rev. Droit Int. July-Sept., 1936.
- . The return to barbarism. *F. J. C. Hearnshaw.* Nat. Rev. Oct., 1936.
- . Public opinion as a safeguard of peace. *E. H. Carr.* Int. Affairs. Nov.-Dec., 1936.
- . Gas masks. *Fortune.* Dec., 1936.
- . The indivisibility of peace and the inseparability of east and west. *Albert Sarraut.* Pacific Affairs. Dec., 1936.
- . The deadly issue. *Bronislaw Malinowski.* Peace on earth. *Theodore Morrison.* Future warfare. *B. H. Liddell Hart.* Atlantic. Dec., 1936.
- . Einfluss der Politik auf die Kriegesführung. *Karlgeorg Schuster.* Zeitschrift f. die gesamte Staatswissenschaft. Vol. 97, no. 1. 1936.

JURISPRUDENCE

Books

- Glasson, Morel, Tissier.* Traité théorique et pratique d'organisation judiciaire, de compétence et de procédure civile. Pp. 683. Paris: Sirey. 1936.
- Joel, King-Sien.* Die Verhältnis von positivem Recht und Naturrecht. Pp. 35. Frankfurt a. M.-West: Ullmann. 1936.
- Keller, Hans Gerhard.* Generalklauseln im Strafrecht? Pp. 55. Berlin: Triltsch & Huther. 1936.
- Keutgen, Hans.* Private und öffentliche Sühne im Strafrecht. Pp. 78. Köln: Orthen. 1936.
- Lerebours Pigeonnière, Paul.* Précis du droit international privé. Pp. 475. Paris: Dalloz. 1936.
- May, G.* L'activité juridique de l'Empereur Claude. Pp. 85. Paris: Sirey. 1936.
- Thrasher, Frederic M.* The gang; a study of one thousand three hundred and thirteen gangs in Chicago. Chicago: Univ. of Chicago Press. 1936.
- Vidal, Georges, and Magnol, Joseph.* Cours de droit criminel et de science pénitentiaire. Pp. 32. Paris: Rousseau. 1936.
- Whitney, Janet.* Elizabeth Fry; Quaker heroine. Pp. 337. Boston: Little, Brown. 1936.

Articles

Comparative Law. The sources and literature of Scots law. *James C. Brown.* Juridical Rev. Sept. 1, 1936.

———. The code of northern Mongolia: Khalkha Djirom. *V. A. Riasanovsky.* Chinese Soc. and Pol. Sci. Rev. Oct., 1936.

———. Legal system of the confederate states. *William M. Robinson, Jr.* Jour. Southern Hist. Nov., 1936.

———. The place of foreign and comparative law in the American law reviews. *Francis Deak.* Va. Law Rev. Nov., 1936.

Crime. Crime and economic change in Philadelphia. *Albert C. Wagner.* Jour. Crim. Law and Crim. Nov.-Dec., 1936.

Criminal Law. Zur phänomenologischen Methode im Strafrecht. *Karl Engisch.* Archiv. f. Rechts- und Sozialphilos. Oct., 1936.

———. Jurisprudence in the criminal law. *G. L. Radbruch.* Jour. Comp. Legis. and Int. Law. Nov., 1936.

———. History of criminal appeal in England. *Lester B. Orfield.* Mo. Law Rev. Nov., 1936.

———. Legislation—the 1935 changes in the penal code. *Robert Kingsley* and *James B. Irsfeld, Jr.* So. Calif. Law Rev. Nov., 1936.

———. Vignettes of the criminal law. *Charles C. Arado.* Jour. Crim. Law and Crim. Nov.-Dec., 1936.

———. The new indeterminate sentence law. *Frederick A. Moran.* N. Y. State Bar Assoc. Bull. Dec., 1936.

Del Vecchio. L'oeuvre et la doctrine de Giorgio Del Vecchio. *Guido Gonella.* Archives de Philos. du Droit et de Soziol. Jurid. Vol. 6, no. 1-2. 1936.

Delinquency. Medicine, the law, and juvenile delinquency. *Smith Ely Jelliffe.* Delinquency among Jews. *Liebmann Hersh.* Do problem children become delinquents and criminals? *Nathan Bodin.* Jour. Crim. Law and Crim. Nov.-Dec., 1936.

Equity. Fifty years of American equity. *Sidney Post Simpson.* Harvard Law Rev. Dec., 1936.

Grand Jury. Impaneling a legal grand jury in Illinois. *Sidney A. Steiner.* John Marshall Law Quar. Sept., 1936.

Judiciary. The independence of the judiciary. *L. B. Day.* Neb. Law Bull. July, 1936.

———. The movement for judicial reorganization. *Charles R. Erdman, Jr.* N. J. State Bar Assoc. Quar. Oct., 1936.

———. The independence of the judges. *T. Villeneuve Smith.* Australian Law Jour. Oct. 15, 1936.

———. Organized for service. *Merrill E. Otis.* The Brief. Nov., 1936.

———. Contempt—by publication in circulars and newspapers. *John F. Beamis, Jr.* Boston Univ. Law Rev. Nov., 1936.

———. A small claims court for Pennsylvania. *George Scott Stewart, Jr.,* and *Robert D. Abrahams.* Pa. Law Rev. Nov., 1936.

———. History and structure of the state appellate courts, with special reference to criminal cases. *Lester B. Orfield.* So. Calif. Law Rev. Nov., 1936.

Jury. The jury system in Australia. *H. V. Evatt.* Australian Law Jour. Oct. 15, 1936.

———. Reform of the jury system in Europe; results and conclusions. *François Gorphe.* Jour. Crim. Law and Crim. Nov.-Dec., 1936.

Law. The changing concept of the law. *Frank Kingdon*. N. J. State Bar Assoc. Quar. July, 1936.

———. The elasticity of law. *Maurice Berkson*. Neb. Law Bull. July, 1936.

———. The common law in the United States. *Harlan F. Stone*. Harvard Law Rev. Nov., 1936.

Law Enforcement. A physician examines the coronor. *O. T. Schultz*. Nat. Mun. Rev. Oct., 1936.

———. Traffic murder cases. *George Rogers*. Tex. Municipalities. Oct., 1936.

———. Science in law enforcement. *John Edgar Hoover*. Neb. Law Bull. Nov., 1936.

———. The use of force in making arrest. *Andrew Clark*. Ky. Law Jour. Nov., 1936.

———. The federal department of justice. *W. Earl Smith*. N. Y. State Bar Assoc. Bull. Dec., 1936.

———. Law enforcing officers in North Carolina. *Albert Coates*. N. C. Law Rev. Dec., 1936.

Legal Aid. The bedside manner in law. *C. W. Ferguson*. So. Atlan. Quar. Oct., 1936.

———. Certain European legal aid offices. *Robert E. Stone*. Calif. Law Rev. Nov., 1936.

Legal Philosophy. Über Grundfragen der neuen deutschen Rechtswissenschaft. *Otto von Schweinichen*. Richtiges Recht und positives Recht. *Eugen Kempermann*. Rechtsfindung im neuen deutschen Staat. *A. Manigk* and *Heinz Hildebrandt*. Archiv f. Rechts- und Sozialphilos. May, Oct., 1936.

———. Sur quelques faits caractéristiques de différenciation juridique. *René Hubert*. La théorie anglo-américaine du droit vue par un juriste du continent. *Gustav Radbruch*. Essai critique sur les notions de loi éternelle et de loi naturelle. *Luís Peña*. Le droit, l'éthique, le pouvoir. *Nicolas Timacheff*. Archives de Philos. du Droit et de Sociol. Jurid. Vol. 6, nos. 1-2. 1936.

———. La doctrine des droits acquis en droit transitoire ou intertemporal. *Etiénne de Szasz*. Rev. Droit Int. et Légis. Comp. Vol. 17, no. 2. 1936.

———. A note on legal definitions. *Huntington Cairns*. Columbia Law Rev. Nov., 1936.

Parole. Protecting the public by parole and parole prediction. *Ernest W. Burgess*. Commission recommendations for legislative reform in prison, parole, and probation. *O. L. Harvey*. Jour. Crim. Law and Crim. Nov.-Dec., 1936.

Penology. The development of criminal law and penology since 1910. *James B. Montagu*. Medico-Legal and Crim. Rev. Oct., 1936.

———. The inside of prison life. *A prison visitor*. Nat. Rev. Nov., 1936.

———. Elizabeth Fry goes to Newgate. *Janet Whitney*. Atlantic. Nov., 1936.

———. Social attitudes of the prison warden. *Joseph S. Roucek*. Sociol. and Soc. Research. Nov.-Dec., 1936.

———. Prison problems under the Hawes-Cooper act. *Paul R. Kach*. Commercial Law Jour. Dec., 1936.

Pound. The thought and work of Roscoe Pound. *Henry T. Lummus*. Tulane Law Rev. Dec., 1936.

St. Ives. St. Ives, patron saint of lawyers; a symposium. *William L. Ransom* and *Others*. Fordham Law Rev. Nov., 1936.

Statutes. Content of a course on statutory law. *Frederic P. Lee* and *John O'Brien*. Georgetown Law Jour. Nov., 1936.

———. Negligent homicide; a study in statutory interpretation. *Stefan A. Riessenfeld*. Calif. Law Rev. Nov., 1936.

LOCAL GOVERNMENT

Books

Abbott, Edith, and Others. The tenements of Chicago, 1908-1935. Pp. 525. Chicago: Univ. of Chicago Press. 1936.

Barnard, Bernard L. City manager government in Kansas. Pp. 28 (mimeo.). No imprint.

Blake, E. H. Drainage and sanitation. London: Batsford. 1936.

Boston Municipal Research Bureau. Improving Boston's budgeting. Pp. 17. (mimeo.). Boston: Boston Munic. Research Bur. 1936.

Bradshaw, William L., and Garrison, Milton. Township organization in Missouri. Pp. 70. (Univ. of Missouri Studies. Vol. 11, no. 4). Columbia (Mo.): Univ. of Mo. 1936.

Caullet, Paul. Cours de police administrative et judiciaire. Pp. 668. Paris: Rousseau. 1936.

Chamber of Commerce, State of New York. A statement in opposition to the establishment of a municipal power and light plant in New York City and to the creation of municipal power authorities. Pp. 26. N. Y.: Chamber of Commerce, State of New York.

Dana, Julian. The man who built San Francisco; a study of Ralston's journey with banners. Pp. 409. N. Y.: Macmillan. 1936.

Feder, Leah Hannah. Unemployment relief in periods of depression; a study of measures adopted in certain American cities, 1857 through 1922. Pp. 384. N. Y.: Russell Sage Found. 1936.

Hasluck, E. L. Local government in England. N. Y.: Macmillan. 1936.

Hicks, H. S. The wasteful system in local government. Pp. 24. Aurora (Ill.): Aurora Chamber of Commerce. 1936.

Hillhouse, A. M. Municipal bonds; a century of experience. Pp. 579. Chicago: Munic. Finance Officers Assoc. 1936.

International City Managers' Association. Training for public administration. Pp. 20. Chicago: Int. City Managers' Assoc. 1936.

Articles

City-Manager. The saga of a village manager. *Philip D. Taylor.* Nat. Mun. Rev. Nov., 1936.

———. Democracy and council-manager government. *Louis Brownlow.* The city manager and public policy. *J. C. Biggins.* A group portrait of city managers. *Hume K. Nowlan.* Pub. Management. Nov., 1936.

County. Spotlight on the county manager plan. *G. W. Spicer and Others.* New York's struggle for county home rule. *S. C. Mastick.* Erie county, New York, deals in real estate. *E. A. Mauck.* Functional consolidation in the counties of Virginia. *R. Uhl.* Nat. Mun. Rev. Oct., 1936.

———. Interpretation of the county home rule amendment by the Ohio supreme court. *S. Gale Lowrie.* Univ. of Cincinnati Law Rev. Nov., 1936.

Debt. Municipal debt adjustment and the supreme court. *George H. Dission.* Yale Law Jour. Dec., 1936.

Federal Relations. The American city in relation to works progress administration and direct relief. *Neville Miller.* Soc. Service Rev. Sept., 1936.

- . Municipal problems facing the 75th congress. *J. Kerwin Williams*. Nat. Mun. Rev. Nov., 1936.
- . The status of cities under recent federal legislation. *J. Kerwin Williams*. Am. Pol. Sci. Rev. Dec., 1936.
- Franchise. The history of the municipal franchise. *Lady (Ernest) Simon*. Pub. Admin. Oct., 1936.
- Great Britain. English local government finance. *Mable Newcomer*. Pol. Sci. Quar. Dec., 1936.
- Metropolitan Areas. Local government in metropolitan Chicago. *Victor Jones*. Proposals for government reorganization in the Los Angeles metropolitan area. *Russell M. Story*. Metropolitan government in Cincinnati. *S. Gals Lowrie*. Am. Pol. Sci. Rev. Oct., 1936.
- . Regional agencies for metropolitan areas. *Ralph F. Fuchs*. Wash. Univ. Law Quar. Dec., 1936.
- Municipal Law. The municipal power of investigation. *Sophie A. Olmsted*. Nat. Mun. Rev. Nov., 1936.
- . Municipal corporation; effect upon collection of tort judgments of constitutional and statutory limitations on indebtedness and taxing powers. *Mich. Law Rev. Nov., 1936*.
- Personnel. A personnel program for the county service. *H. E. Kaplan*. Nat. Mun. Rev. Oct., 1936.
- . Lip service or civil service? *C. A. Dykstra*. Pub. Management. Dec., 1936.
- Planning. Current problems in city planning. *Walter H. Blucher*. Pub. Management. Dec., 1936.
- Police. Police cadet training. *E. J. Hanson*. Jour. Crim. Law and Crim. Nov.-Dec., 1936.
- Public Ownership. Revenue financing of public enterprises. *E. J. Foley, Jr.* Mich. Law. Rev. Nov., 1936.
- Purchasing. Central purchasing schemes in operation—local authorities. *S. C. Bird*. Pub. Admin. Oct., 1936.
- . Municipal purchasing. *J. T. Barton*. Tex. Municipalities. Nov., 1936.
- Streets. The financing of city and village streets. *L. F. Jones*. Municipality. Dec., 1936.
- Taxation. State aid and tax limitation in California. *W. W. Crouch*. Town planning and taxation: friends or foes. *H. S. Bottenheim*. Nat. Mun. Rev. Nov., 1936.
- Township. Shall we save the township? *Arthur W. Bromage*. Nat. Mun. Rev. Oct., 1936.
- Urbanization. Social characteristics of cities. *William Fielding Ogburn*. Pub. Management. Nov., Dec., 1936.

POLITICAL THEORY AND MISCELLANEOUS

Books

- The American economic system compared with collectivism and dictatorship. Pp. 36. Wash.: Chamber of Commerce of U. S. 1936.
- Angel, Pierre*. Essais sur Georges Sorel. Pp. 352. Paris: M. Rivière. 1936.
- Ascoli, Max*. Intelligence in politics. Pp. 289. N. Y.: Norton. 1936.

Blackett, Olin W. The literature of business statistics; a bibliography. Pp. 67. Ann Arbor: (Mich.): Univ. of Mich. 1936.

Bonnard, R. Le droit et l'état dans la doctrine nationale-socialiste. Pp. 179. Paris. Libr. Gén. de Droit et de Juris. 1936.

Bourquin, M. La sécurité collective. Pp. 500. Paris: A. Pedone. 1936.

Chamber of Commerce of United States. The American economic system compared with collectivism and dictatorship. Pp. 36. Wash.: Chamber of Commerce of U. S. 1936.

Cook, Thomas I. History of political philosophy. Pp. 725. N. Y.: Prentice-Hall. 1936.

Dublin, Louis I. The American people: studies in population. Pp. 396. (Annals of Am. Academy of Political and Social Science, Nov., 1936.) Phila.: Am. Acad. of Pol. and Soc. Sci.

Fulton, James Arthur. Our economic nationalism; its purpose and importance. Pp. 213. McKeesport (Pa.): Author. 1936.

Gibbs, Henry. The spectre of communism. Pp. 287. London: Selwyn & Blount. 1936.

Hardie, W. F. R. A study in Plato. Pp. 185. London: Clarendon Press. 1936.

Humphrey, Edward F., ed. Liberty documents. Pp. 22. N. Y.: Nat. Conf. of Jews and Christians. 1936.

Izard, Georges. Où va le communisme? Pp. 128. Paris: B. Grasset. 1936.

Jacob, Claud P. G. Credit: the secret of human poverty and financial chaos. Pp. 95. London: Constructive Commonwealth Union. 1936.

Keller, Kent Ellsworth. Prosperity through employment. Pp. 251. N. Y.: Harper. 1936.

Lamberty, Max. Le rôle social des idées. Pp. 288. Paris: P. Lethielleux. 1936.

Macsessey, Kenneth. Collective insecurity. Pp. 304. London: Longmans. 1936.

Mackenzie, Findlay, ed. It shall come to pass: past, present, and future of economic control and planning. Pp. 824. N. Y.: Prentice-Hall. 1936.

Mathews, John M., and *Hart, James.* Essays in political science in honor of Westel Woodbury Willoughby. Baltimore: Johns Hopkins Press. 1936.

Millard, A. Douglas. The coöperative movement today and tomorrow. Pp. 62. London: Hogarth. 1936.

Millet, Raymond. Le communisme? Ou quoi? Pp. 128. Paris: B. Grasset. 1936.

Neifeld, Morris. Coöperative consumer credit, with special reference to credit unions. Pp. 233. N. Y.: Harper. 1936.

Newsom, John. Out of the pit; a challenge to the comfortable. Pp. 136. London: Blackwell.

Rowse, A. L. Mr. Keynes and the labour movement. Pp. 78. London: Macmillan. 1936.

Stein, Gertrude. The geographical history of America, or the relation of human nature to the human mind. Pp. 207. N. Y.: Random House. 1936.

Tarbell, Ida Minerva. The nationalizing of business, 1878-1898. Pp. 329. N. Y.: Macmillan. 1936.

Wattenberg, William W. On the educational front; the reactions of teachers' associations in New York and Chicago. Pp. 218. N. Y.: Columbia Univ. Press. 1936.

Whitlock, Brand. The letters and journal of Brand Whitlock. 2 vols. Pp. 665, 747. N. Y.: Appleton-Century. 1936.

Withers, William, and *Others.* Current social problems; a survey of contemporary problems in relation to education. Pp. 317. N. Y.: Prentice-Hall. 1936.

Articles

Baldwin. The social philosophy of James Mark Baldwin. *Charles A. Ellwood*. Jour. Soc. Philos. Oct., 1936.

Capitalism. National economic policy: the American tradition. *D. Clark Hyde*. So. Econ. Jour. Oct., 1936.

———. Some international aspects of capitalism and its present crisis. *Herbert von Beckerath*. So. Econ. Jour. Oct., 1936.

———. Public corporations and business enterprise. *Marshall E. Dimock*. Pub. Admin. Oct., 1936.

———. The state in relation to banking. *C. R. McKerihan*. Pub. Admin. Oct., 1936.

———. Our depressions—their causes and cures. *William M. Noble*. Law Society Jour. Nov., 1936.

———. Society as the patient. *Lawrence K. Frank*. Am. Jour. of Soc. Nov., 1936.

———. The state and the social process. *Sydney Smith*. The Brief. Nov., 1936.

———. Monopolistic and imperfect competition. *Horace G. White, Jr.* Am. Econ. Rev. Dec., 1936.

———. Die Beziehungen zwischen Währung und Handelspolitik. *Andreas Predöhl*. Zeitschrift f. die gesamte Staatswissenschaft. Vol. 97, no. 1. 1936.

Church and State. The opium of the people. *Peter Hutton*. The cowardice of the Catholic church. *Edward Quinn*. Nine. Cent. Nov., Dec., 1936.

———. The national church and the "gathered" church. *Alfred E. Garvie*. Contemp. Rev. Dec., 1936.

Communism. Communism and fascism. *A. J. Penty*. Am. Jour. of Soc. Sept., Oct., 1936.

———. Left wings over Europe. *Geoffrey Stone*. Am. Rev. Oct., 1936.

———. Communism and the common man. *Ruth Katherine Byrns*. Catholic World. Nov., 1936.

———. Are we going communist? a debate. *Everett D. Martin* and *Earl Browder*. Forum. Nov., 1936.

Consumer. Democracy's third estate: the consumer. *Robert S. Lynd*. Pol. Sci. Quar. Dec., 1936.

Contemporary Politics. Politische Verfassungslehre. *Heinrich Herrfahrdt*. Archiv f. Rechts- und Sozialphilos. Oct., 1936.

———. The government of posterity. The collectivist movement in practice. *Walter Lippmann*. Atlantic. Nov., Dec., 1936.

Coöperatives. The coöperatives. *J. B. Matthews*. Atlantic. Dec., 1936.

Corporate State. La position présente du corporatisme. *Maurice Ajam*. Rev. Pol. et Parl. Oct. 10, 1936.

Durkheim. Quelques remarques critiques sur la sociologie d'Émile Durkheim. *Madeleine Apchis*. Archives de Philos. du Droit et de Soziol. Jurid. Vol. 6, nos. 1-2. 1936.

Fascism. The five fascists. *Roger Shaw*. So. Atlan. Quar. Oct., 1936.

Hauriou. Die Theorie der Institution bei Maurice Hauriou. *Victor Leontowitsch*. Archiv f. Rechts- und Sozialphilos. May, 1936.

Hobbes. Hobbes et l'état totalitaire. *René Capitant*. Archives de Philos. du Droit et de Soziol. Jurid. Vol. 6, nos. 1-2. 1936.

Keynes. Mr. Keynes' "general theory of employment, interest, and money." *A. P. Lerner*. Int. Labour Rev. Oct., 1936.

Machiavelli. Über Niccolò Macchiavellés Wirken auf militärischen Gebiet. *Hans Helfritz.* Archiv f. Rechts- und Sozialphilos. Oct., 1936.

Marx. The Marxian philosophy of history. *Ross J. S. Hoffman.* Am. Rev. Oct., 1936.

Monarchy. The relation between intellect and morality in rulers. *Edward L. Thorndike.* Am. Jour. of Soc. Nov., 1936.

Nature of the State. Macht, Recht, Verfahren. *Barna Horváth.* Archiv f. Rechts- und Sozialphilos. Oct., 1936.

———. The state can do no wrong. *Albert Jay Nock.* Am. Mercury. Nov., 1936.

———. Deutsche Wehrordnung und Verfassung bis zum Ende des Absolutismus. *Ernst Huber.* Zeitschrift f. die gesamte Staatswissenschaft. Vol. 97, no. 1. 1936.

Popular Front. The popular front. *Hugh Dalton.* A British people's front: why and how. *G. D. H. Cole.* Working class unity and a popular front. *A Socialist.* Pol. Quar. Oct.-Dec., 1936.

Public Opinion. Putting public opinion to work. *George Gallup.* Scribner's. Nov., 1936.

Planning. Design for country living. *Paul W. Wager.* Rural zoning in Wisconsin. *Mary C. Trickett.* The planner faces a new job. *C. J. Cabron.* Nat. Mun. Rev. Oct., 1936.

———. Distinctive features of planning procedure of the Clackamas county planning board. *L. C. Stoll* and *V. B. Stanbery.* Commonwealth Rev. May-July, 1936.

———. Social planning through education. *Francis J. Brown.* Am. Soc. Rev. Dec., 1936.

Press. A few kind words on the press. *Hilaire Belloc.* Nine. Cent. Oct., 1936.

Radicalism. Radical—American style. *Gilbert Seldes.* No. Am. Rev. Autumn, 1936.

Social Change. The historical pattern of social change. *R. M. MacIver.* Jour. Soc. Philos. Oct., 1936.

———. The unanticipated consequences of purposive social action. *Robert K. Merton.* Am. Soc. Rev. Dec., 1936.

Social Credit. Credit experiments. *M. A. Earle Kelly.* Nat. Rev. Nov., 1936.

Social Sciences. Nature and tasks of the social sciences. *Alexander Goldenweiser.* Jour. Soc. Philos. Oct., 1936.

———. The teaching of the social sciences. *Symposium.* Education. Nov., 1936.

———. What has philosophy to contribute to the social sciences, and to economics in particular? *H. Bernadelli.* Economica. Nov., 1936.

———. Social problems and the mores. *Willard Waller.* Am. Soc. Rev. Dec., 1936.

———. Our economic blue laws. *Richard D. Skinner.* No. Am. Rev. Autumn, 1936.

Social Work. Social work as a profession—past and present. *Philip A. Parsons.* Commonwealth Rev. Nov., 1936.

Sovereignty. Souveraineté de la morale. *M. N. Sotto Pintor.* L'Egypte Contemp. May, 1936.

Unemployment. An analysis of unemployment. *William Beveridge.* Economica. Nov., 1936.

———. La crise du chômage en Egypte et ailleurs; ses causes et ses remèdes. *A. L. Emary.* L'Egypte Contemp. May, 1936.

GOVERNMENT PUBLICATIONS

MILES O. PRICE

Law Library, Columbia University

AMERICAN

UNITED STATES

Civil Service Commission

Official register of the United States, 1936, containing a list of persons occupying administrative and supervisory positions in legislative, executive, and judicial branches of government, including District of Columbia. Washington: Govt. Ptg. Off., 1936. 241 p.

Congress

House of Representatives. Select committee to investigate old age pension plans. Old age pension plans and organizations, hearings, 74th Congress, 2d session, pursuant to H. Res. 443 . . . pt. 6. Washington: Govt. Ptg. Off., 1936.

Labor Department

Consumers' project. Bills and laws affecting consumers, selected from the work of the seventy-fourth Congress. Washington, 1936. 74 p., processed.

Immigration and naturalization service. Federal textbook on citizenship training: pt. 1., pt. 3. Washington: Govt. Ptg. Off., 1936. 187, 288 p. (revised editions).

Labor standards division. Digest of state and federal labor legislation, enacted Sept. 15, 1935–Sept. 15, 1936. Washington: Govt. Ptg. Off., 1936. 33 p.

Labor statistics bureau. International association of governmental labor officials. Labor laws and their administration, proceedings of 21st convention. . . Asheville, N. C., October, 1935. Washington: Govt. Ptg. Off., 1936. 196 p.

Library of Congress

Legislative reference service. Provisions of federal law held unconstitutional by the Supreme Court of the United States. Washington: Govt. Ptg. Off., 1936. 148 p. This pamphlet will be hailed with relief by reference librarians who have been subjected to questioning on this subject, since, for the first time, it gathers together all decisions by the Supreme Court holding federal legislation unconstitutional, and also presents the information regarding these cases from many points of view—how many acts held unconstitutional, the form of procedure, subject-matter of cases, separability clauses, dissenting opinions, data on justices participating in the cases, analytical table of cases, what is a case or controversy properly before the court, etc.

National Emergency Council

Digest of purposes of current federal agencies. Revised August 15, 1936. Washington: Govt. Ptg. Off., 1936. 38 p.

National Labor Relations Board

Division of economic research. Governmental protection of labor's right to organize. Summary of evidence introduced at a hearing before the National Labor Relations Board bearing upon the factual basis of the National Labor Relations Act and the reasonableness of the regulations embodied therein. Bulletin No. 1. Washington: Govt. Ptg. Off., 1936. 174 p.

Social Security Board

Analysis of state unemployment compensation laws, November 15, 1936. Washington: Govt. Ptg. Off., 1936. v.p., processed.

——— Draft bills for state unemployment compensation of pooled fund and employer reserve account types. Washington: Govt. Ptg. Off., 1936. 150 p.

State Department

Our foreign relations and our foreign policy, address by Cordell Hull, Secretary of State, before Good Neighbor League, New York City. . . . Washington: Govt. Ptg. Off., 1936. 12 p.

Papers relating to foreign relations of United States, 1921. . . . Washington: Govt. Ptg. Off., 1936. 2 v.

Tariff Commission

The trade agreement with Canada. Report no. 111, second series. Washington: Govt. Ptg. Off., 1936. 135 p.

Concessions granted by the United States in the trade agreement with Canada. Digests of trade data respecting the products affected by the concessions. Washington, 1936. 639 p. processed. (This is the much attacked reciprocal trade agreement with Canada.)

STATE AND TERRITORIAL**CALIFORNIA**

University of California, Berkeley. Bureau of public administration. Preparation of public reports and documents: A bibliography. Compiled by Dorothy Campbell Culver. Berkeley, 1936. 13 p. mime.

GEORGIA

University of Georgia, Athens. Proceedings of the Institute of public affairs, 10th annual session, 1935-36. University of Georgia, Athens, 1936. 190 p.

ILLINOIS

University of Illinois, Urbana. National taxation of state instrumentalities, by Alden L. Powell, Urbana, 1936. 166 p. (Illinois studies in the social sciences, v. 20, no. 4.)

KANSAS

Legislative council. This council issues, at rather frequent intervals, reports in mimeographed form for the use of legislators, such as lists of material on legislative problems, memoranda on questions that may arise in connection with the Kansas constitution and Title I of the federal social security act, status of state laws on social security, suggested unemployment compensation legislation, etc.

MISSISSIPPI

Tax commission. The internal debt structure of the counties of Mississippi, exclusive of municipalities, as of July 31, 1935. Jackson, September, 1936. 189 p.

NEW JERSEY

State planning board. Proceedings of the state-wide planning conference held at New Brunswick, N. J., March 18, 1936. Trenton, 1936. 156 p.

NEW YORK

Law revision commission. Second annual report. Albany, 1936. 1123 p.

This is not the usual annual report, but is a compilation of studies made during the year on recommended legislation, containing the background material of the existing law, etc. The work is so well done that much of it is already being used as collateral reading in law schools.

NEW YORK CITY

City of New York, Board of statutory consolidation. Preliminary report to the municipal assembly of the City of New York. New York, 1936. 117 p.

Perhaps the most interesting feature of this preliminary report is the detailed description of the minute methodology employed in studying the existing law, its history, and present status; and in setting up the problems as they touch the various departments of the city government.

OHIO

Government survey. Ohio government survey directed by Colonel C. O. Sherrill. Columbus, 1936. 302 p.

PENNSYLVANIA

Legislative reference bureau. A compilation of the laws relating to state taxation, revenue, and fiscal affairs, annotated. Compiled by Burt R. Glidden . . . and William C. Fry. Harrisburg, 1936. 518 p.

FOREIGN AND INTERNATIONAL

ARGENTINE REPUBLIC

Ministère des affaires étrangères. Pacte de non-agression et de conciliation Argentin (conclu le 10 Octobre 1933). Recueil de documents. Buenos Aires, 1936. 335 p.

JAPAN

Foreign department. Dai Nippon gaiko bunsho. v. 1, 1867-68. Tokyo, 1936. (A collection of the diplomatic papers of Japan since the Meiji restoration. Text in Japanese. About six volumes will appear annually.)

KENYA COLONY AND PROTECTORATE

Conference of governors of British East African territories. For the past three years, this Conference has been issuing short reports dealing with the coördination of various government activities, the latest being on the coördination of general medical research in East African territories. Nairobi, 1936. 97 p.

MEXICO

Ministry of foreign relations. The Mexican government in the presence of social and economic problems. The President's message to Congress. Mexico City, 1936. 69 p.

POLAND

Ministra spraw zagranicznych. Zbiór traktatów Rzeczypospolitej Polskiej. 1936 II. Warsaw, 1936. 38 p. (The Polish treaty series.)

RUSSIA

Gosudarstvennaia planovaiia komissia. Narodnokhoziastvennyi plan na 1936 god. Chetvertyi god vtoroi piatiletki. Moscow, 1936. 647 p. (The state of the government plan in 1936.)

LEAGUE OF NATIONS

Documents relating to the question of the application of the principles of the covenant. (League of Nations, Official Journal, special supplement no. 154). Geneva, 1936. 97 p.

Conference for the reduction and limitation of armaments. Records. Series D, volume 3: Minutes of the air commission, February 27th-June 24th, 1932. Geneva, 1936. 316 p.

——— Series D, volume 5: Minutes of the political commission, February 27th, 1932-March 10th, 1933. Geneva, 1936. 62 p.

Inter-governmental conference for the conclusion of an international convention concerning the use of broadcasting in the cause of peace. Final act. Geneva, 1936. 12 p.

International studies conference, 7th, Paris, 1934. Collective security. A record of the seventh and eighth international studies conferences, Paris, 1934-London, 1935, edited by Maurice Bourquin. Paris, International Institute of Intellectual Coöperation, 1936. 514 p.

UNION INTERNATIONALE POUR LA PROTECTION DES OEUVRES LITTÉRAIRES ET ARTISTIQUES.

Sa fondation et son développement. Berne, Bureau de l'Union, 1936. 114 p.

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KELSEN'S THEORY OF LAW*

HENRY JANZEN
Hamilton College

Professor Hans Kelsen is the leading exponent of the "pure" theory of law, which is attracting a great deal of attention abroad¹ but as yet has received scant notice in the United States. His theory marks the culmination of the tendency toward a strictly *legal* theory, represented in the writings of K. F. von Gerber, Paul Laband, and Georg Jellinek. This movement aims to eliminate all purely metaphysical postulates—such as the natural law concepts—from legal theory, as well as to free it from the political tint which it so often manifests. It also endeavors to separate the validity of law from dependence on any personal authority.

This attempt to "depersonalize" law is the last stage of a development that began with the passing of absolutism. At that time, ideas of a "general will" and of popular sovereignty—attended by a demand for "a government of laws and not of men" and by the introduction of the principle of separation of powers—made their appearance, only to be supplanted, more recently, by the concept of the *Rechtsstaat*. The latter concept really grew out of the theory of the "general will" owing to attempts to make that will conceivable as an objective norm, the transition stage being marked by Hegel's exploitation of the idea of the "general will" but without its democratic implications. Subsequently, the conception of the "general will" itself progressively lost ground and the concept of the

* The attention of readers is called to Professor Kelsen's paper, "Centralization and Decentralization," appearing in a volume entitled *Authority and the Individual*, published recently by the Harvard University Press. This Harvard Tercentenary paper, which it was at one time planned to present in this REVIEW, having thus been made easily accessible, it has been deemed best to present here Professor Janzen's analysis of Kelsen's legal thought instead. *Man. ed.*

¹ See bibliography compiled by R. A. Metall and appended to Kelsen's *Reine Rechtslehre; Einleitung in die rechtswissenschaftliche Problematik* (Leipzig and Vienna, 1934).

Rechtsstaat finally was freed from the appendage it had inherited from the past. During the last half of the nineteenth century, the concept reached a stage in its evolution at which it reflected the belief that obedience is owed to an objective jurisdiction and that in obeying law one is obeying law only and not a personal ruler.²

The legal theory based on this conception of law encountered difficulties in attempting to reconcile it with sovereignty. Being unable to conceive law except as an expression of a sovereign will, the *Kompetenz-Kompetenz* and auto-limitation schools³ endowed the personified state with a will. If the exponents of these theories had been consistent, they would have conceived this will as an ideal objectivity or would have discarded it altogether.

But only the contemporary school of legal purists, with which Kelsen is so prominently associated, has gone as far as that. The members of the schools mentioned in the preceding paragraph make an attempt to explain the source of legal obligation in legal terms, alleging that the personified state and its will are purely formal legal concepts. But an examination of their writings makes it obvious that they confuse these concepts with the "substantive" state and its concrete functions, and that the will of the state to them is more than a metaphorical expression for the imperative nature of norms.⁴ This inconsistency (namely, the confusion of formal concepts with the concrete functions of the substantive state and the conclusions made possible by this alternation) cannot possibly be an inadvertency, for these theorists must be presumed to

² For a discussion of this development, see H. Heller, *Die Souveränität; Ein Beitrag zur Theorie des Staats- und Völkerrechts* (Berlin and Leipzig, 1927), pp. 18-20.

³ The best known exponent of these theories is Georg Jellinek. In the United States, the most prominent representative of the *Kompetenz-Kompetenz* school is Professor W. W. Willoughby, who has presented to the English-speaking world what he calls the "juristic conception of the state."

⁴ See particularly G. Jellinek, *Allgemeine Staatslehre* (3rd ed., Berlin, 1914), pp. 170ff., 465-469; *Die rechtliche Natur der Staatenverträge* (Vienna, 1880), pp. 38-41; *Das System der subjectiven öffentlichen Rechte* (Tübingen, 1905), pp. 2, 17, 125; *Die Lehre von den Staatenverbindungen* (Berlin, 1882), pp. 34, 54-55; W. W. Willoughby, *Fundamental Concepts of Public Law* (New York, 1924), pp. 30-50, 71-79, 118-120.

For criticism of these theories, see H. Kelsen, *Allgemeine Staatslehre* (Berlin, 1925), pp. 7-15; *Das Problem der Souveränität und die Theorie des Völkerrechts* (Tübingen, 1920), pp. 8-30, 43, 184; L. Nelson, *Die Rechtswissenschaft ohne Recht* (Leipzig, 1917); A. Verdross, *Die Einheit des rechtlichen Weltbildes auf Grundlage der Völkerrechtsverfassung* (Tübingen, 1923), pp. 1-2, 33, 37-38. See also below, pp. 211-212.

possess a knowledge of elementary logic. The explanation should be sought in their nationalistic predisposition.

Kelsen not only tries to free legal theory from this political tint, but he also avoids the methodological error of viewing the state interchangeably from two points of reference. That is why his theory attains inner consistency. He conceives the state as a system of legal norms and affirms a rule of law without the intervention of metajuristic factors. That is to say, he is not concerned with the extrinsic (i.e., non-legal) sources and sanctions of law. These socio-political factors, he points out, belong in the realm of a science of causality and are not relevant to a normative discipline which must deal with norms exclusively. In the Kantian manner, he insists on drawing a line between *Sein* and *Sollen*; and, viewing law as an objective norm (*ein Sollen*), he carefully disassociates it from its empirical sources and sanctions.⁵

A normative science, according to Kelsen, does not regard law as an imperative because it is a command (an empirical expression of a will), but because law ought to be obeyed. To this "oughtness" (*Sollen*) Kelsen does not ascribe the absolute value that attaches to morality. A legal norm, he says, is not a categorical imperative but a hypothetical judgment denoting a specific relationship between a determined fact and a determined consequence. To take criminal law, for example, the connection between delict and punishment is not a natural cause-and-effect relationship but a relationship in the normative sense. It means simply that in the case of non-compliance a coercive act will follow. Thus "oughtness" as the category of law has only one specific meaning, namely, that the fact which determines the legal consequence and the legal consequence attached to it are brought together in a legal norm. This relationship is of a purely formal nature and is adaptable to any empirical legal material, or, in other words, "oughtness" is a relative *a priori* category which enables one to grasp the empirical legal material. But it is not the distinctive characteristic of law, it is only *the most general concept* (*Oberbegriff*). Kelsen, who continues in the positivist

⁵ *Allgemeine Staatslehre*, pp. vii-viii, 6-7; *Reine Rechtslehre*, pp. 2-4. See also J. W. Jones, "The 'Pure' Theory of International Law," *British Yearbook of International Law* (1935), p. 19. Mr. Jones says: "The pure theory of law does not assert that law is free from elements of psychological, sociological, and, above all, political importance. What it attempts is to put a purely legal construction upon some of the terms which are fundamental in modern legal science—positive law, the sources of law, the sovereign state."

tradition, sees the distinctive quality of law in its being a coercive order with an external sanction (i.e., a sanction which does not spring from the subject's inner consciousness).⁶

Kelsen's resolve to maintain the normative character of law is manifest in his differentiation of the act to which a norm attaches a legal consequence and the norm proper. When a "natural" act is designated as a legal process, that, Kelsen says, means nothing more or less than that the validity of a norm is asserted, the content of which is definitely related to the actual occurrence. The constitution of a state is "produced" by the empirical volitional act of the constituent authority, but derives its validity from a preconceived legal norm. That is to say, by juristic hypothesis, the constituent authority is derived from a legal principle or norm. A statute is enacted by a legislature, but it derives its validity from the constitution. In the same manner, the exercise of a judge's will who renders a decision derives its validity from a statute. Thus, whether or not a norm is valid depends on whether or not its maker has jurisdiction. For example, the legislature is competent to enact certain statutes when it is given the necessary jurisdiction by the constitution; and custom becomes law when the constitution makes provision for such a transmutation. The mere historical fact of issuing a statute is not proof of the competence of the legislative organ and does not make law, nor does custom become law without a legal norm to that effect.⁷

In separating the normative sphere from that of actual occurrences, Kelsen does not overlook the fact that legal norms refer to human actions which occur at a certain time and in a certain place. He points out that the content of the norms which the legal theorist supposes to be valid must correspond in a certain measure to actual human behavior. In other words, only those legal norms are supposed to be valid which manifest their effectiveness in a certain minimum of corresponding human actions. However, the normative sphere and that of actual occurrences must not coincide; to regard them as identical amounts to a negation of law, for laws, being rules of conduct, obviously have a meaning only if a difference between the two spheres is possible. And, if the disparity is too great, law cannot be used as a criterion for the evaluation of human conduct. As a matter of fact, positivist legal theory pro-

⁶ *Reine Rechtslehre*, pp. 20-38.

⁷ *Das Problem der Souveränität*, pp. v-vi; *Reine Rechtslehre*, pp. 2-9.

ceeds on the basis of the "principle of effectiveness," i.e., it does not affirm the validity of norms which are ineffective.⁸

Nevertheless, in his attempt to explain the imperative character of law in a strictly legal fashion, Kelsen distinguishes between effectiveness and validity. He says first of all that effectiveness is not the decisive factor for the validity of law. Furthermore, he insists that the discipline with which he deals is entitled to be an independent branch of study—distinct from theology, ethics, or the science of politics—and maintains that for that reason, and in order to comply with the methods of formal logic, the obligatory nature of law must be derived from another legal norm, a norm that is original and self-sustaining and not derived from a "higher" though not specifically legal principle. As an independent discipline, it deals with its own specific material—namely, law—viewing it as an independent entity, i.e., one that stands on its own foundation and is not derived from another norm-system.⁹

Although concerned only with positive law, Kelsen knows that he must derive its imperative nature from a norm that is beyond positive law. Since empirical volitional acts can become norms only if compliance with the dictates of the law-giver is enjoined by a norm, the positivist who refuses to view law as a mere instrument of force must presuppose a norm that is not laid down by a legislator.

The introduction of this "initial hypothesis" (the preconceived basic norm) enables Kelsen to preserve the normative character of law. The question as to how empirical volitional acts or custom become law has caused many jurists to stray from the straight and narrow path of pure legal theory and to seek an answer in the fields of ethics, or group-psychology, or even the psychology of hypostatized legal persons. Kelsen avoids these digressions. To him the basic norm is only a thought-content, an assumption beyond which the jurist cannot go without leaving his universe of discourse.

A. Verdross, criticizing this aspect of Kelsen's theory, insists

⁸ *Allgemeine Staatslehre*, p. 18. This should satisfy the most exacting of the positivists, and yet, Mr. Stern questions Kelsen's success as a positivist. See C. W. Stern, "Kelsen's Theory of International Law," in this *REVIEW*, Vol. 30, pp. 736-741.

⁹ *Das Problem der Souveränität*, pp. 83-89; *Reine Rechtslehre*, pp. 1-2; *Allgemeine Staatslehre*, pp. 103-106. For a similar view, see Anzilotti, *Corso di diritto internazionale*, p. 40, quoted by A. Verdross, *Die Verfassung der Völkerrechtsgemeinschaft* (Vienna and Berlin, 1926), p. 31.

that the initial hypothesis amounts to a fiction unless it is used only as a starting point from which the jurist's insight will lead him to the conclusion that the basic norm, to have any meaning, must be rooted in the realm of absolute values.¹⁰ But that area lies outside the precise sphere of Kelsen, the positivist and purist. As a purist, he is unable to explain the nature of this norm. Should he attempt such an explanation, it would amount to a definition of the basic norm in the light of a *Weltanschauung*. In that case, the *Weltanschauung* would be the standard by which norms would be tested as to their legality, and, instead of having a theory of law, we would have a theory of what law in the theorist's opinion should be. If it were possible to discern immutable absolute universal principles of justice, an attempt to explain law with reference to them by an omniscient legal philosopher would not be objectionable. But the attempt to develop a general theory of law by men with limited vision and in the light of a *Weltanschauung* shaped by conditions peculiar to a certain locality and to a certain time amounts to an explanation of an institutionalized form in terms of the socio-political forces which form its temporary and localized content. Such a theory is likely to be a rationalization of the *status quo*, and, if widely accepted, would tend to make law inflexible in that it would retard the adaptation of its content to changing social needs. Or, if the legal theorist is dissatisfied with the existing order of things, and defines law in the light of his point of view, intending by that means to direct social and political development toward an end considered desirable by him, no amount of referring to allegedly objective values on his part can change the fact that his theory, instead of being an objective explanation of law, is the instrument of a subjective ideology. Thus we see that in either case legal theory is a mere hand-maiden of politics.

Legal theory of that variety conflicts with Kelsen's conception of the sovereignty of law. For as a means to an end—be it a political, moral, or any other end—law would be a mere subordinate part of a higher order.¹¹ As we have seen, Kelsen insists that a legal theorist is entitled to view law as an independent entity that serves none but its own inherent purpose. And he uses the term sovereignty merely as a symbol of the independence and separateness of law from religion, morals, and politics. The concept of

¹⁰ *Die Verfassung der Völkerrechtsgemeinschaft*, pp. 2-3, 21-23, 32, 35.

¹¹ *Das Problem der Souveränität*, pp. 83-86; *Reine Rechtslehre*, pp. 1-2.

sovereignty is therefore of a purely formal nature. In existential reality, Kelsen says, no source of power or motivating cause can be found which is original and entirely self-sustaining (i.e., one that has no causal connection with another source). Even the most powerful state suffers diverse limitations in its cultural, economic, and political life, to say nothing about legal restraints. Sovereignty is therefore not a sociological phenomenon that can be empirically ascertained.¹²

That a will cannot be sovereign is self-evident to Kelsen. He steers clear of the anthropomorphism in which legal theory has been entangled since the passing of absolutism. Most people seem to be unable to visualize law without a subjective psychical bearer; that is why many legal theorists have attributed characteristics to the personified state which are commonly associated only with real persons. These characteristics, in turn, have made the state conceivable as the bearer of sovereignty.

One of the attributes with which the state has been endowed is a will which is alleged to be the source of all law. The idea that the state has a will is the result of a superficial and faulty analysis of certain phenomena. It is based on the illusion that the interplay of wills which occurs in existential reality and which generates law results in the creation of a psychical unit. To make this unit (i.e., the state) more plausible as the psychical bearer of law, it is personified and invested with a will. The psychic interplay itself, however, does not even offer an adequate explanation of the social unity of the members of the state. There are interests and, therefore, wills which tend to separate as well as those which have a centripetal effect. What is more, such interplay occurs only when people live in association. The basis of association, or the factor that unifies individuals and diverse interest groups, is a system of norms—the state. It cements the group together in that it compounds the conduct of the multitude of individuals inasmuch as it imposes duties on them. As a system of norms regulating conduct, the state is a super-individual entity, to be sure, but only in the normative sense, not in the realm of physical or psychical reality. When there is a concurrence of several wills, an actual coalescence is present only in the act of thinking about it. That is to say, this concurrence does not really produce a transcendental super-individual entity with a will, or even a will alone, that is distinct

¹² *Das Problem der Souveränität*, pp. 7, 9; *Allgemeine Staatslehre*, pp. 102–103.

from the individual wills which are synthesized, so to speak. In other words, that synthesis of wills which is the essence of the concept of every social structure, as well as that of the state, is merely a thought-content.¹³

Kelsen points out that in the eyes of the jurist a "person" is a personified norm-system; in other words, it is a collective name for the ensemble of legal rights and duties which are attributed to a real person or group of persons. The personified state, therefore, is nothing but a symbol of the unity of norms which give certain rights and duties to the organs of the state. And a person is subject to the will of another only in so far as the subordination is commanded by a norm. Those in authority are commissioned by a norm; and their will is the "will of the state" only because they are commissioned by a norm to express a will which passes for the will of the state. That is to say, one is subject to authority in the sense of being subordinated to a norm. The legal norm, therefore, is the real ruler, and *the state is identical with law, i.e., it is the legal system*. Legal theory is concerned with the government—which is a part of the substantive state—only in so far as power delegated by law is not power in the real sense but competence, and is therefore a part of the legal system.¹⁴

Criticizing those who distinguish between the internal and the external aspects of sovereignty, Kelsen says that the state is not independent externally because it is superior to other legal entities within its borders. The state is independent only in the sense that it is coördinated to other states. Such coördination obviously implies a superimposed authority which allots to the states their respective spheres of jurisdiction.¹⁵ Therefore, if the word sovereignty is at all useable, it is applicable only to the state's conduct of its internal affairs. "When viewed from within, the sovereignty of the state becomes simply the quality ascribed to municipal law of being the last, highest, underived system, as contrasted with subordinate systems deriving their validity from it, and the expression sovereign state is seen to be a mere pleonasm."¹⁶ Since sovereignty is synonymous with supremacy, and supremacy is a

¹³ See H. Kelsen, *Allgemeine Staatslehre*, pp. 7-15; L. T. Hobhouse, *The Metaphysical Theory of the State* (New York and London, 1918), p. 66; N. J. Spykman, *The Social Theory of Georg Simmel* (Chicago, 1925), pp. 51-54.

¹⁴ *Das Problem der Souveränität*, pp. 8-14, 16-18, 20; *Allgemeine Staatslehre*, pp. 106-107.

¹⁵ See below, p. 223.

¹⁶ J. W. Jones, *op. cit.*, p. 9.

superlative, the state is not really sovereign even internally, although it is superior to the legal entities which it encompasses.¹⁷

Having defined the state in terms of law, Kelsen considers the problem of the relationship between municipal and international law. He says that the relationship between two norm-systems may either be one of subordination or one of coördination. In the case of the former, the lower order finds the source of its validity—the relatively basic norm for itself—in the superimposed order. In the latter case, there must be, in addition to the coördinated systems, a higher order; for the coördination of two legal systems amounts to a delimitation of their respective jurisdictions, and that simply means that the content of the lower norms is determined by the higher norms. The relationship between the higher norms and the lower norms may be either direct or indirect. That is to say, the higher norms may either determine the procedure by which the lower norms are to be enacted or else may delegate to certain authorities the competence to issue norms which are to be valid in a certain sphere. In both cases the relationship of the higher order to the lower is that of a whole to its parts. And, if the two systems of norms which we designate respectively as international law and municipal law are law, the relationship between them must be one of those described here.¹⁸ A dualistic construction of law, i.e., one that is based on the assumption that international law and municipal law are two systems, distinct as to source and content, is methodologically impossible. Kelsen admits that, in the final analysis, the difference between municipal and international law lies in a difference of "sources," i.e., sources in the sense of social facts. But he also points out that such sources lie outside the scope of legal theory, since a normative discipline concerns itself only with the sources of the imperative nature of law, namely, the basic norms.

The best known exponent of dualism is H. Triepel.¹⁹ According to Triepel, municipal law is the product of the will of the state and international law is created by the merging (*Vereinbarung*) of the wills of the individual states. The expression of this common will of the nations constitutes a law which is binding and which is not subject to change by unilateral action. Triepel readily admits his

¹⁷ *Das Problem der Souveränität*, pp. 38–40; *Allgemeine Staatslehre*, pp. 106–107.

¹⁸ *Reine Rechtslehre*, pp. 136–137.

¹⁹ *Völkerrecht und Landesrecht* (Leipzig, 1899).

inability to explain the source of the obligatory nature of this law, pointing out that this difficulty is the common lot of all who try to explain the source of obligation in jurisprudence. Granting that this can be done only on the basis of an "initial hypothesis," such an explanation is to be preferred to Triepel's explanation or, to be exact, omission thereof.²⁰ Triepel's construction gives law a psychological basis, whereas that offered by the pure theory preserves the normative character of law. Supposing a coalescence of the wills of several states does take place, it still remains to be shown how an expression of this common will can be transmuted into a legal norm without presupposing a norm that attaches legal consequences to the factual meeting of wills. This Triepel does not explain. Therefore, to be subject to one of Triepel's laws means nothing more than being confronted by an empirical will. As Mr. J. W. Jones aptly observes,

The theory which founds the basis of the validity of international law on an aggregate or union of the wills of states had never been able to explain how the empirical description of the origin of the content of rules can provide a legal basis for their obligatory force. States enter into agreements, but the analysis of this fact in terms of psychology leaves unsolved the problem why treaties are binding even after the will to be bound has disappeared.²¹

Even if one were to deduce that "the will of the international community" is the source of the imperative nature of international law from "the reason of the thing," as Mr. Lauterpacht suggests, one would encounter the same difficulties that the social contract philosophers had to face in connection with their doctrine of the "general will," difficulties that they tried to evade by introducing the far-fetched doctrine of "tacit consent." Therefore, the introduction of the "initial hypothesis" by the Austrian school as a solution of the problem of legal obligation seems to be quite an improvement as compared with Triepel's evasion of the question.²²

Because Triepel conceives international and municipal law as binding norms and not as mere conglomerates of socio-political facts, he cannot take the disparity of the two systems as his point of departure and construe their contemporaneous validity without violating the rule of identity. The monistic construction is required as a matter of methodological consistency.²³ Kelsen argues that if

²⁰ For a different view, see H. Lauterpacht, *The Function of Law in the International Community* (London, 1933), p. 416.

²¹ *Op. cit.*, pp. 18-19.

²² *Op. cit.*, p. 421.

²³ In view of the contribution of the Austrian school in the field of methodology

the dualists were right in their contention that the two systems are separate and distinct, it would be impossible for them to view the state and international law as well as two or more states as contemporaneously valid systems of norms. The dualist must be satisfied with viewing his own state as the only valid system of norms and must look upon all other states and international law as phenomena in existential reality, not in the normative sphere. He must exclude them from his universe of discourse for the same reason that he must exclude ethics, for example. At any rate, he cannot designate them as systems of legal norms.²⁴

Since it seems unreasonable to deny a normative character to international law as well as to the other state systems, some dualists, according to Kelsen, resort to a fiction in order to establish the legality of the aggregates of norms which are outside of their own state system. They derive their legal nature from the "recognition" which is accorded them by their own state. That means, of course, that international law and the other legal orders become the "external" law of the state which extends the recognition; in other words, they become the norms by which the state unilaterally regulates its relations with other states. Thus, in spite of the dualistic orientation of the exponents of the "recognition" theory, the tendency inherent in juristic cognition inadvertently comes to the fore. Namely, the legal order of the world becomes a unitary system on the basis of the law of the recognizing state. However, whether the dualist admits it or not, his doctrine implies the primacy of the state and thus amounts to a denial of international law, one of the functions of which is the coördination of states.²⁵

Referring to the affirmation of the current theory that international law regulates the conduct of *states*,²⁶ whereas municipal

alone, the statement of Lauterpacht, that "little, if anything, has been added to it [i.e., Triepel's theory] by recent jurists," seems unwarranted. *Ibid.*, p. 416.

²⁴ *Das Problem der Souveränität*, pp. 94-98, 105-107, 121, 123; *Reine Rechtslehre*, pp. 136-139.

²⁵ *Reine Rechtslehre*, pp. 139-143.

²⁶ The assertion that only states as such can be subjects of international legal rights and obligations is another corollary of the personification of the state. In the days when the overlordship of the personal ruler over his domain was regarded as a property right (see for example Hugo Grotius, *De jure belli ac pacis*, tr. by F. W. Kelsey, Oxford, 1925, pp. 113-119, 137), it was quite proper to regard him as a possessor of international legal rights and duties. However, the attempt to present the personified state as the heir of the personal ruler to these rights and duties amounts to an attribution of rights and obligations to an abstraction.

law regulates relations among individuals and between individuals and the superimposed state, Kelsen points out that this alleged distinctive function of international law and the implied dualism cannot be explained regardless of whether the theorist postulates the primacy of municipal law or the primacy of international law. Supposing, for the sake of argument, that the state "recognizes" the norms of international law as a limitation on its competence. From the standpoint of the jurist, that means—as was pointed out in the preceding paragraph—that the state incorporates international law in its own legal system, or, in other words, that international law becomes the external law of the state. In that case, the law of nations cannot limit the state in any other way than the state's own legal system—of which it has become a part—limits the "state." But the state can limit itself only by prescribing certain lines of conduct to the men whose conduct, by legal fiction, is considered to be the conduct of the state. It follows that international law really regulates the conduct of *men* who are agents of the state and not that of the state itself. In other words, to say that international law imposes obligations and confers authorizations on states simply means that individuals are on the receiving end of the relationship. The situation is analogous to the relationship between municipal law and a subordinate juristic person—a corporation, for example. In both cases, the higher law determines what is to be done and what is not to be done, but the individuals who are to act or to abstain from action are determined by the subordinate legal person, the state and the corporation, respectively. The relationship between individuals and international law is therefore not direct or immediate, with the exception of such laws as the rules of blockade and guerilla warfare which in some of their aspects apply to men who are not agents of the state in the usual sense but private citizens.²⁷

²⁷ *Das Problem der Souveränität*, pp. 126–127, 130–133, 139, 162–165; *Reine Rechtslehre*, pp. 132–134. This argument of the dualists loses all its significance when one considers that in any case law, as viewed by the jurist, regulates only relations among norm-systems. That is to say, although law *actually* regulates relations among men, it is only through the agency of law that relations are brought into being which are relevant to juristic study. In the eyes of the jurist, a "person" is only a collective name for the aggregate of rights and duties that pertain to an individual or group. Every person in the legal sense is therefore a system of norms, and legal relations are relations within a legal order and among legal systems only. Cf. *Das Problem der Souveränität*, pp. 125–127.

If international law does not regulate the relations with which it is concerned directly, but delegates that function to the state, the two systems must logically be derived from the same source and they must be linked together by legal norms. That is to say, the two systems must be regarded as one. The dualism of municipal and international law would be conceivable, according to Kelsen, if the latter could be regarded as limiting the states as such. But that is obviously impossible without regarding the state as a real person.²⁸

There are also those who argue against a monistic construction by pointing out that the separateness of the two systems of law follows from the possibility of irreconcilable conflicts between them. By way of rebuttal, Kelsen points out that the dualist's use of "recognition" as a link between the two systems actually removes this objection to the monistic construction. That is to say, such conflicts are inconceivable when one considers that, in the final analysis, it all goes back to the same "will" and, especially, when one bears in mind that the so-called will of the state is nothing but a metaphorical expression for the imperative nature of norms.²⁹

Kelsen also points out that the alleged conflicts of laws are really factual situations and that from the purely logical point of view they are not contradictions. There are analogous situations within the state, and yet no one thinks of denying the unity of the state's legal system. An unconstitutional statute may be regarded as binding, or an administrative act may be *ultra vires*, without destroying that unity. The repugnant lower norm may be annulled by prescribed procedure and the agent exceeding his authority may be held personally responsible in jurisdictions where such acts are punishable offenses. But a delict is not a breach of law in the sense that it interrupts the existence of law; in fact, it confirms the existence of law in that it is the prerequisite condition to the specific reaction of law, namely, the coercive act. Since there is no logical contradiction between a delict and the norm which establishes it, it follows that from the purely logical point of view it is conceivable that an illegal act may lay down a valid norm. Though the issuance of such a norm in some jurisdictions may make the issuer liable to a penalty, the norm may nevertheless be valid until it is abrogated

²⁸ *Ibid.*, pp. 130, 133.

²⁹ *Reine Rechtslehre*, p. 144.

by another legal act, or it may remain valid indefinitely if there is no legal remedy provided for its deficiency.³⁰

In a similar manner, a statute may be repugnant to a treaty or to customary international law without affecting the validity of these international legal rules. International law obliges the states to carry out certain measures by attaching certain consequences to non-compliance, namely, its specific sanctions—retortion, reprisals, and war. But this does not preclude the possibility of a statute of a state being at variance with the dictates of international law. And—although some treaties make provision for the solution of such conflicts—as far as general international law is concerned, the situation is similar to that within a state the constitution of which fails to establish a procedure by which unconstitutional statutes may be voided but fixes the responsibility for unauthorized acts on the agencies that act *ultra vires*. That is to say, a government which enacts a statute that is repugnant to international law is guilty of an international delict and is subject to the appropriate penalties.³¹

One need not have a will-to-believe or a desire for “a completely homogeneous and unified theory of law” to be convinced by this argument. And, when Mr. Jones, who apparently is not convinced, insists that “if there is one proposition clearly recognized by both international and municipal law, it is that a rule which is opposed to the former may yet be binding in the latter,”³² he does not affirm something that Kelsen denies. As was shown above, Kelsen is fully aware of that fact and merely insists that such a discrepancy does not destroy the unity of law.

Continuing his criticism of Kelsen, Mr. Jones says also:

How is it possible to say that an act contrary to international law is to be attributed to the complex of rules of which the state is the personification and which owe their validity to international law itself? Such a conclusion can only be reached by adopting the hypothesis of the supremacy of municipal law, which, says Kelsen, is as much as to say that international law is not law at all, with the consequence that the act cannot be unlawful . . . The problem of the validity of state legislation contrary to international law only arises if we accept the monistic position for the act of legislation, and the dualistic for the rule when once it is laid down.³³

Mr. Jones' difficulty seems to spring from the fact that he seeks and fails to find analogies in municipal law, as is indicated by his

³⁰ *Reine Rechtslehre*, pp. 38, 145.

³¹ *Reine Rechtslehre*, pp. 144–147.

³² J. W. Jones, *op. cit.*, p. 13.

³³ *Ibid.*

statement that "even in the Common Law it is not yet admitted that a corporation can be held responsible for damage caused by an act which is *ultra vires* of the corporation."³⁴ To find such analogies, one need not go beyond the laws and judicial decisions in the United States defining the liability of municipal corporations for the torts of agents engaged in so-called proprietary functions. Furthermore, for examples of a contemporaneous existence of two mutually incompatible laws one needs only to examine the constitutional history of federal states. In such states, a lower norm which is repugnant to a higher norm is not *ipso facto* invalid. It has the effect of law for all practical purposes until it is annulled in a prescribed manner by an authorized agency. In other words, a legislative enactment by a government whose competence is limited by a constitution which is enforceable by the courts has the effect of law until it is declared to be repugnant to the higher law and therefore null and void. In some jurisdictions, the courts *must* apply the statute without being competent to exercise the power of judicial review; and administrative agencies generally must carry out statutes regardless of whether or not they are in accord with the constitution. Thus we see that "conflicting rules can and do exist side by side" without destroying the unity of the legal order.

When Mr. Jones insists that international as well as municipal law recognizes "that a rule which is opposed to the former may yet be binding in the latter," he fails to tell the whole story. For a government which is guilty of enacting statutes or decrees in violation of international law may not invoke these statutes or decrees as a defense against claims arising in consequence of its delict. A government, the rights of whose nationals are violated by the government of another state either by a statutory enactment or by a decree, or by its failure to protect them, or by a "denial of justice," has the right to insist on the repeal of the repugnant enactments as well as to determine what procedure to use in pressing the claims arising from a violation of these rights. Some of these rights rest on provisions of treaties, others arise from the generally recognized rule of positive international law according to which foreign nationals are entitled to the same measure of protection from the government of a state as that government affords its own

³⁴ *Ibid.*, footnote 1.

citizens.³⁵ Granting that legislatures do enact statutes which are contrary to treaties and to general international law, and that municipal courts, following the rule *lex posterior derogat priori*, may apply them in preference to the treaties, or in preference to general international law, insisting on "express adoption" of the latter by their own state before they give effect to it, this does not deprive a government, the international legal rights of whose citizens have been violated in this manner, of the right to insist on arbitration or adjudication or to exert pressure on their behalf by all available means, such as diplomacy, reprisals, and war. And the agencies responsible for the conduct of the foreign relations of the refractory state yield to such demands or pressure unless they feel strong enough to stand the consequences of resistance. The available means of self-help in the international forum may not always be effective in solving the conflicts between state action and international law, but this deficiency, as we have seen, does not disprove the formal unity of the international legal system and of the state systems which it encompasses; it merely proves the inadequacy of its implementation and sanctions.

Having determined that formally law is a unity, the problem of primacy remains to be solved. The question is not solved by positing sovereignty in law; it remains to be determined whether municipal or international law has precedence in the legal hierarchy. In relation to this subject, Kelsen takes the view that legal science has a choice between two hypotheses: it may proceed on the assumption that municipal law is supreme, and, again, it may postulate the primacy of international law. From the standpoint of scientific method, both approaches are warrantable, asserts Kelsen, because we are concerned with a problem that cannot be empirically verified. Therefore, one may assume, on the one hand, that a

³⁵ Cf. E. M. Borchard, *Diplomatic Protection of Citizens Abroad* (New York, 1927), pp. 18, 181-182, 213-230, 330; J. L. Brierly, *The Law of Nations* (Oxford, 1930), pp. 137-141; C. Eagleton, *The Responsibility of States in International Law* (New York, 1928), pp. 12-13, 167-168; J. W. Garner, "Limitations on National Sovereignty in International Law," in this REVIEW, Vol. 19, pp. 8, 14; A. Verdross, *Die Einheit des rechtlichen Weltbildes*, p. 163; *Die Verfassung der Völkerrechtsgemeinschaft*, p. 37; B. H. Williams, *American Diplomacy; Policies and Practice* (New York and London, 1936), pp. 212-228.

There is no such general agreement concerning the legality of the so-called "international standard" invoked on behalf of foreign creditors and investors in the more unstable countries by their home governments in order to insure them preferential treatment and a greater degree of protection than that enjoyed by the natives. See B. H. Williams, *op. cit.*, pp. 212-216.

norm of international law arranges the relationship between the law of nations and the state. On the other hand, one may assume that the state arranges its relationship to international law by a legal norm which incorporates international law, or at least a part of it, in its own law. Finally, one may assume that the state abstains from linking the rules of the so-called international law to itself, for there is nothing in juristic cognition which makes it imperative to regard as valid norms rules that cannot be included in the category law on the basis of the primacy of municipal law. In other words, the jurist is not compelled to ascribe a legal character to factual phenomena which, according to his point of view, are not legal norms. The material which is designated law is not law *a priori*; it acquires legal character only through the hypothesis by means of which it is interpreted. Whether it is law at all, and what its relationship to other law is, depends on the hypothesis of the observer. The choice of this hypothesis is arbitrary, and in making his choice the observer is influenced by his *Weltanschauung*.³⁶ Thus, according to Kelsen, the solution of the problem varies according to the point of departure of the jurist, which may be either international law or the state. Kelsen says, in effect, that the political views and attitudes of the legal theorist determine whether municipal law has precedence over international law or *vice versa*, or whether international law is law at all.

Criticizing Kelsen's relativism, Verdross maintains that it is inconsistent with his assertion that only a system of norms which is actually effective is positive law.³⁷ Verdross contends that if this is the criterion of positive law, the legal theorist does not have the freedom of choice that Kelsen assigns to him, but is compelled to regard as a positive legal order any system of norms that is effective. And, therefore, if it is possible to show that international law meets that qualification, it must be regarded as law. In other words, if the legal theorist whose point of reference is municipal law finds it impossible to include international law in his universe of discourse, he must, according to Verdross, expand his universe of discourse so as to include international law.³⁸

It does not follow from Kelsen's statement, as Verdross seems to imply, that all norms which manifest their effectiveness in actual conduct of human beings are law. Kelsen merely states that the

³⁶ *Das Problem der Souveränität*, p. 103; *Allgemeine Staatslehre*, pp. 128-129.

³⁷ See above, p. 208.

³⁸ *Die Verfassung der Völkerrechtsgemeinschaft*, p. 17.

positivist legal theory does not affirm the validity of norms that are ineffective.³⁹ This does not mean that all effective rules are generic norms and that they must be included in the category law. The dictates of fashion and the rules of morality, for example, are effective; yet it would not occur to anyone to designate them as law. They refer to lines of conduct the regulation of which governments have not seen fit to take upon themselves. One may agree with Verdross when he makes the term law the common denominator for all the norms which are effected by governmental agencies, including the rules governing international intercourse; yet one must admit that these rules and municipal law are sufficiently dissimilar in their secondary characteristics to make a differentiation of the norm-systems seem reasonable. For that reason, and because a definition is arbitrary, there is nothing to prevent a legal theorist from defining law in such terms as to exclude the rules governing international relations.

Having affirmed the freedom of the jurist to choose as his point of reference either international law or municipal law, Kelsen explains why he bases his own theory on the primacy of international law. He has demonstrated the unity of the two systems of norms by a negative argument denying the possibility of a logical contradiction between them. After that, his analysis of the "origin" of the state and of the principle of state equality inevitably leads him to the conclusion that the concept of law is actually as well as formally complete only if the primacy of international law is recognized and if it is conceived as the highest all-encompassing system.

According to the principle of effectiveness—which is not only Kelsen's criterion of positive law, but also a generally recognized principle of positive international law regulating the rise and fall of states and governments—a government is considered to be legitimate if, during a certain length of time, it has demonstrated that it is capable of enforcing its enactments. This means that a community in which a legislative authority has operated effectively for a period of time constitutes a state in the international legal sense, or, what amounts to the same, it is a state by authority of international law.⁴⁰ Not only does a state receive its legislative

³⁹ See above, p. 208.

⁴⁰ The idea that states are creatures of international law is by no means new. We find it in the writings of Richard Zouche (1590–1660), for example, who says

authority from the law of nations by way of delegation, but international law also delimits its temporal and territorial validity through the principle of effectiveness. Thus the origin as well as the termination of states is explained by Kelsen in legal terms in the same way that one explains the formation and dissolution of subordinate juristic persons within the state.⁴¹ As Mr. Jones points out, recognition on the part of other states can therefore have only "declaratory, never constitutive, effect."⁴² That international law thus legitimizes revolutionary governments after they have satisfied its requirements, and "gives to the order immanent in the facts . . . the dignity of law,"⁴³ is not Kelsen's fault, as Mr. Jones seems to imply. For a legal theorist, in referring to concrete situations, cannot by his fiat make law more perfect than it actually is.

The territorial limits of a state also are determined by the principle of effectiveness. These limits coincide with the extent of the effectiveness of the legal order of the state. And international law not only guarantees the integrity of this territory by attaching certain legal consequences (i.e., its sanctions) to acts of encroachment on the part of other states, but, looked at from another angle, it also enjoins the state from undertaking coercive measures beyond its confines, except in special cases. If states are viewed as coercive orders, it is only in this manner that their legally coördinate existence is conceivable. In other words, the principle of state equality, which is generally recognized as a rule of positive law, can have a legal meaning only from the standpoint of the primacy of international law.⁴⁴

According to Kelsen, the state has residual powers. That is to say, its claim to the totality of powers is limited by the specific powers withdrawn, or to be withdrawn, from its competence by the international legal order. In this respect the state differs from other agents of international law, namely, those resting on treaty or convention basis, which have only delegated powers. As an agent of the international legal order, the state participates in the

that by international law "nations are separated, kingdoms founded, commerce [is] instituted, and lastly wars [are] introduced." *Juris et judicii fecialis, sive, juris inter gentes, et questionum de eodem explicatio*, tr. by J. L. Brierly (Carnegie Institution of Washington, 1911), p. 1.

⁴¹ *Reine Rechtslehre*, p. 148.

⁴³ *Ibid.*, p. 15.

⁴² *Op. cit.*, p. 14.

⁴⁴ *Reine Rechtslehre*, pp. 148-149.

formation and amplification of international law by means of treaties and usage.⁴⁵

Some of the champions of state sovereignty against a superimposed legal order explain customary international law in terms of tacit agreement and derive its binding force by indirection from the treaty-making power of the state. But, says Kelsen, even treaties, i.e., express agreements, are law-producing factors only because there is a norm to that effect. This norm must be part of a higher order, for, considering the legal equality of states and the territorial delimitation of the state's authority, it is plain that one state cannot bind or authorize the citizens of another state. And, since the competence of one state engaged in the conclusion of a treaty with another cannot be added to that of the other—as one might add two mathematical figures—to produce a higher authority competent to enact norms the validity of which would extend over both states, there must be a higher law which makes the creation of such particular international law possible. Theoretically, the creation of particular international law is conceivable only on the basis of a general law of nations.⁴⁶

Among the norms of general international law, the rule *pacta sunt servanda* is very important. It is the norm which attaches legal consequences to the empirical act of concluding an agreement. Without it, treaty-making would not be a law-producing factor, or, in other words, treaties would not be law. It also obliges states to conduct themselves in conformity with the terms of treaties. Since the fundamental law, upon which treaties rest, is one of the norms of general international law, treaties (i.e., particular international law) are on a lower level in the hierarchy of law than the general law of nations.⁴⁷

This general international law imposes obligations and confers authorizations on all states. It came into being through usage; i.e., it was formed by acts of state agencies authorized by their constitutions to conduct foreign relations. But it did not acquire its legal character from usage, says Kelsen; even customary law must rest on a norm which stipulates that usage creates law.⁴⁸

Since the legal nature of treaties is derived from general international law, the representatives of two or more states engaged in concluding a treaty constitute *one* organ, which is primarily an agent of the international legal order and not the common agent

⁴⁵ *Ibid.*, p. 150.

⁴⁷ *Ibid.*, pp. 129-130.

⁴⁶ *Ibid.*, pp. 150-152.

⁴⁸ *Ibid.*, p. 129.

of the two or more states. This is apparent, Kelsen points out, when one bears in mind that it is the general law of nations which authorizes states to designate representatives for the purpose of negotiating treaties. But, obviously, these representatives, who jointly are an agent of the international legal order, severally are also agents of their respective states; thus the states also are organs of international law, with delegated authority to participate with other states in the formation of treaty law.⁴⁹

In this manner, Kelsen establishes the unity of the universal legal order. He hastens to point out, however, that he is by no means speaking of a unified organization of the world in a universal state. He is fully aware of the fact that in reality there is a great deal of disunity. The unity he has demonstrated is a formal (*erkenntnismässige*) unity.⁵⁰ Therefore Mr. Stern's statement that "only the future can tell whether or not Kelsen idealized the present international status"⁵¹ misses its mark.

It has also been stated that Kelsen "did not succeed in developing a 'pure' theory of law any more than other philosophers before him," because he was impelled to posit the supremacy of international law by his "internationalist ideology" and not by logical deduction alone.⁵² Kelsen does say that the conception of a number of co-existing communities which, in spite of differences in size, population, and power, are equal before the law and which, with their respective jurisdictions delimited, are united in a greater community, is an eminently ethical idea. He hastens to add, however, that it is tenable only when supported by the juristic hypothesis of a superimposed legal order.⁵³ And in pointing out that the *theoretical* refutation of the dogma of sovereignty is one of the important achievements of the pure theory, he says that it was not undertaken with a political purpose in mind. He admits that it may have political consequences because it removes one of the obstacles that has impeded the growth of international law and a more complete unification of the international legal order—developments that have been opposed by the champions of the dogma of sovereignty as being incompatible with the nature of international law and of the state.⁵⁴ The doctrine of sovereignty—a political dogma in the

⁴⁹ *Ibid.*, p. 152.

⁵⁰ *Ibid.*, p. 153.

⁵¹ C. W. Stern, *op. cit.*, p. 741.

⁵² *Ibid.*, pp. 740-741. See also J. W. Jones, *op. cit.*, pp. 11-12.

⁵³ *Das Problem der Souveränität*, pp. 204-205.

⁵⁴ See *Reine Rechtslehre*, p. 153.

guise of a presumably irrefutable logical argument—insists that sovereignty is an essential element of statehood, thus explaining the contemporary status of a changing institution in terms of an allegedly immutable concept that may or may not have been an appropriate symbol for the facts of an earlier era. If political development is retarded by an “archaic” ideology, it may be expected that the extirpation of the obsolete concept of sovereignty, which is suffused with emotion in the “public mind,” will strengthen law-abiding sentiment and accelerate the growth and implementation of law in the international community.

But such developments are neither assumed nor advocated by Kelsen. His theory, as a theory, is indifferent to its possible political consequences. As we have seen, he does not define law in terms of the purposes which it, in his opinion, should serve. Nor does he define it—as is often done—as the product of a particular political institution, and, therefore, he does not make the existence of such an institution in a particular form the essential and unalterable prerequisite or source of law. The fact that he may have had a political purpose back in his mind when he chose his own fundamental hypothesis and rejected several other theoretically possible alternatives, is an entirely different matter. Granting that one might object to Kelsen’s choice on empirical grounds, that is not the same as saying that his choice and the motives which determined it affect the inner purity of his theory.

Above all, Kelsen must be credited with having relegated a piece of make-believe—namely, the sovereign will of the personified state—to its proper place among other relics. His theory is significant because it shows that the postulation of sovereignty is not prerequisite to an explanation of law. By founding his theory on preconceived legal norms, he furnishes a formula by means of which he is able to explain the source of legal obligation in legal terms and to preserve the objectivity of law. Not only that, but this formula also makes it possible to conceive international law as law in the proper sense; in other words, it supplies a common denominator for a greater number of generic norms than a theory which posits the will of the sovereign state as the source of all law. In this manner, Kelsen takes the state off the pinnacle of the legal pyramid—a position to which it had been elevated by the doctrine of sovereignty—and consigns it to an intermediate place in the legal hierarchy.

THE CONSTITUTIONAL POSITION OF THE *PARTITO NAZIONALE FASCISTA*

H. ARTHUR STEINER
University of California at Los Angeles

I

In the one-party states, of which the U.S.S.R., Germany, and Italy may be taken as the best examples, the definition of relationships between the party and the state has presented a major problem of constitutional theory. No two of these states have solved the problem in the same way. The C.P.S.U., engineering the dictatorship of the proletariat, depends upon methods which are constitutionally indirect. Only in the Commission for Soviet Control is there a constitutionalized inter-relationship between the mechanisms of the party and the state; for the rest, the party relies upon its political discipline over the public personnel. Indirect reference to the Communist party is contained in the new Soviet constitution, in the guarantee to citizens of the right of "uniting in the Communist party of the U.S.S.R.,"¹ and in the incorporation of the hammer and sickle and the slogan of the party into the emblem of the state.² On the other hand, the Nazi régime in Germany prohibited the formation of other parties than the N.S.D.A.P. by the law of July 14, 1933,³ and, by the law of December 1, 1933,⁴ proclaimed the formal union of the party and the state. But not even this extreme form of action destroyed the distinction between party and state, since separate spheres of action are still marked out for each and each has its distinctive system of law.⁵ Nevertheless, the relationship in principle between the party and the state was unequivocally determined by positive legislation before the Nazi régime embarked very far upon its program of constitutional reorganization.

Even its opponents will agree that the Fascist régime in Italy

¹ Art. 128.

² Art. 143.

³ *RGBl*, I, 479.

⁴ *RGBl*, I, 1016.

⁵ Hitler's speech at Nürnberg, in September, 1935, gave no evidence that the party has been "lost" in the state; see W. Sommer, "Partei und Staat," *Deutsche Juristen-Zeitung*, XII (May 15, 1936), 593-597. The tendency to transform the state into the party-state, or into a "régime," is also well illustrated in the integration of the People's Republican party into the governmental structure of Turkey, and in the transformation of the Fatherland Front in Austria, both accomplished during the summer of 1936.

has been somewhat less obvious, in its methods, than its Communist and Nazi contemporaries. The Fascists preferred castor-oil to Communist bludgeons and Nazi blood purges. Some obscure national characteristic, perhaps the same cultured Machiavellian quality that produced the "fine Italian hand" of Leonardo da Vinci and the Borgias, dictated the more "delicate" technique. This may also explain why it was only after ten years of black-shirt domination that the relationship of the Fascist party to the Italian state could be traced with some precision. Today it may with accuracy be said that the party is as much an organ of the state as is the Ministry of the Interior. This conclusion does not rest upon positive enactment, but is to be inferred from official pronouncements, judicial interpretations, and the implications of various statutes.

Much of the difficulty in clarifying the situation in Italy results from the use of the word "party" in a special sense; the continuing use of the word in a new meaning has been described as a "residuum of demo-liberal terminology."⁶ There is a universal agreement that the Fascist party is not a party in the sense of a political organization aiming at the capture of public office in order to enforce its program; this presupposes a variety of competitive dissensions, differences of opinion, struggles within the body politic, and tactics of political opposition, all of which would vitiate the conception of the state as a totalitarian unity.⁷ In Fascist contemplation, the party began as a "movement"—more precisely, as an anti-party movement—opposed in the nature of things to "political" parties; subsequently it adopted the name and technique of a party in order to further its aim.⁸ When that aim had been accomplished, the infiltration of the party throughout the state produced the "régime." Then the party, as progenitor of the régime, came to be regarded as an institution possessed of primordial and super-constitutional characteristics. The forms and organization of the *Partito*

⁶ G. Bortolotto, *Lo stato e la dottrina corporativa* (Bologna, 1931), I, 363.

⁷ G. Ambrosini, *Il Partito Fascista e lo stato* (Rome, 1934), 5-20; C. Costamagna, *Elementi di diritto pubblico fascista* (Turin, 1934), esp. pp. 283-302; S. Panunzio, *Rivoluzione e costituzione* (Milan, 1933), 176 ff; Bortolotto, *op. cit.*, *passim*, esp. p. 364.

⁸ A. Marpicati, *Il Partito Fascista* (Milan, 1935), 19-40; G. Volpe, *Lo sviluppo storico del fascismo* (Palermo, 1928), and his *Storia del movimento fascista* (Rome, 1934); M. Canio, *Il Partito Nazionale Fascista e la sua funzione nello stato* (Nuoro, 1935); M. Maraviglia, *Alle basi del regime* (Rome, 1929).

Nazionale Fascista proved convenient means for exercising its super-constitutional vigil. Only an understanding of this typical Fascist interpretation of political and constitutional history can give meaning to the theoretical gibberish of Panunzio, who has said: "The party, as a revolutionary party, created the state; and the state, created by the party, rests, in its turn, upon the party as upon a pedestal."⁹ From at least one point of view, then, the party is superior to the state, and its willingness to be incorporated into the state is an act of condescension on its part.

II

Beginning with the March on Rome, three fairly distinct stages in the evolution of the relationship between the state and the party may be noted. In the first period, extending from October 28, 1922, until January 3, 1925, the state appeared to take no official cognizance of the Fascist party. During this introductory phase preceding the formal establishment of the dictatorship, coöperation with minor parties was still sought, and leaders of opposition groups were still represented in the cabinet and in Parliament. Fascists were then accomplishing their purposes through unofficial channels and by various political pressures; the Matteotti incident is exciting and politically important, but devoid of constitutional significance.

A second phase opens sharply with the *pronunciamento* of January 3, 1925, and extends to 1929. This may be called the period of transition, during which the party accomplished its *de facto* identification with the state, laying the foundations for the legalized dictatorship, but holding itself officially, if indiscreetly, in the background. Events of this period made foreign observers ask: "What after Mussolini?" In December, 1925, the Prime Minister became *Capo del Governo* and responsible, parliamentary government was formally abandoned; in January, 1926, the government took for itself sweeping powers to legislate by decree; in April, 1926, the first in the series of syndical-corporative measures was adopted, leading eventually to the corporate state. Concurrently, local popular government was abolished and rigid control over the press established. Only then did the party gradually emerge from

⁹ *Op. cit.*, pp. 177-178; Panunzio, "Partito Nazionale Fascista in Italia e Partito Comunista in Russia," *Lo stato corporativo*, II (April, 1934), 72-76; T. Accardi, "Partito-Nazione-Stato," *L'Universalità Fascista*, VII (February, 1935), 224-229.

the official background: the Law on Public Security of November 6, 1926,¹⁰ did not abolish all forms of political organization, nor did it establish in principle the Fascist party as the sole party; but its provisions were sufficiently broad to enable administrative officers to demolish opposition organizations and to destroy any remaining vestiges of political freedom. In the following month, the *Fascio Littorio* was adopted as the "emblem of the state."¹¹ And toward the close of the transition period, the local *fasci*, provincial fascist federations, and other institutions sponsored by the party were endowed with corporate capacity as juridical (if not as public) persons.¹² In the course of 1928, the Fascist Grand Council assumed the public function of preparing the official electoral list under the electoral reform of May 17, 1928,¹³ and, by law of December 9, 1928,¹⁴ it was given functions of a constitutional character. But recognition of the Fascist Grand Council as an organ of the state was not sufficient to endow the entire mechanism of the party with that quality. At this stage in the evolution, the writers were divided in their opinions concerning the legal status of the party. Liuzzi, maintaining that the Fascist party had not lost its essential quality as a "party," admitted that the party was a juridical person, but only for the purposes of private law;¹⁵ Chimienti thought that the party did not have the attributes of the state and did not express the will of the state, but held that it was properly a "constitutional organ";¹⁶ Jemolo thought the quality of a person in public law might be attributed to the party on the basis of a construction of statutes in force;¹⁷ Panunzio went to the extreme of reading juridical significance into the political activities of the party;¹⁸ while Bortolotto, dabbling in the theory of "régime,"

¹⁰ No. 1848, *G. U.*, November 8, 1926, no. 257, retained in the *T. U. (Testo Unico)* of June 18, 1931, no. 773, *G. U.*, June 26, 1931, no. 146.

¹¹ R. D.-L. December 12, 1926, no. 2061, *G. U.*, December 15, 1926, no. 288.

¹² Law, June 14, 1928, no. 1310, *G. U.*, June 22, 1928, no. 145; this was amended by R. D.-L. October 18, 1934, no. 1779, *G. U.*, November 12, 1934, no. 265, to give automatic recognition to the *Fasci* and Fascist federations constituted according to the statute of the party.

¹³ Law, No. 1019, *G. U.*, May 21, 1928, no. 118.

¹⁴ No. 2693, *G. U.*, December 11, 1928, no. 287.

¹⁵ B. Liuzzi, *Il Partito Nazionale Fascista nel diritto pubblico italiano* (Rome, 1930), 10 ff., 36 ff.

¹⁶ P. Chimienti, "Il Partito Nazionale Fascista nell'organizzazione nazionale fascista," *L'universalità fascista*, III (1931), 27 ff.

¹⁷ A. C. Jemolo, "Natura giuridica del Partito Nazionale Fascista," *Rivista di diritto pubblico*, XXI (October, 1929), pt. I, 544-555.

¹⁸ S. Panunzio, *Sentimento dello stato* (Milan, 1928), 227-233.

held the party to be an "institution" of the "régime" and, as such, an auxiliary of the state, but not part of it.¹⁹

In his historic address of September 14, 1929, Mussolini sounded the keynote of the third phase in the party's evolution. To those who then felt that the party, having accomplished the Revolution, was ready to be dissolved, Mussolini declared that the party was the "capillary organization of the régime;" that its "importance was fundamental;" that, had there then been no Fascist party, he would have invented it "as the *Partito Nazionale Fascista* now is—numerous, disciplined, ardent, with a rigid, hierarchical structure."²⁰ The real question, in his view, had to do with formalizing the relationship between the party and the state: "All dualism of authority and hierarchy [as between party and state] is extinguished." To give effect to these principles, the Fascist Grand Council was reorganized by the law of December 14, 1929²¹—a law which for the first time contained principles concerning the organization and internal discipline of the party. The secretary of the party was thereafter to be named by royal decree—that is, by the king—upon recommendation of the *Capo del Governo* (not *Duce*), and was to become an *ex officio* member of various important state organs and to be eligible to participate in the council of ministers. The members of the National Directory and the federal secretaries were to be named by decree of the *Capo*. And then, for the first time, provision was made that the future statutes of the Fascist party be established by royal decree, upon recommendation of the *Capo*, observing the practices of constitutional legislation, i.e., after consultation with the Fascist Grand Council and the council of ministers.²² In pursuance of this principle, the party statute was promulgated in the royal decree of December 20, 1929;²³ the pres-

¹⁹ *Op. cit.*, I, 368.

²⁰ B. Mussolini, *Scritti e discorsi* (Definitive edition, Milan, 1934), VII (1929-1931), 127 ff.

²¹ No. 2099, *G. U.*, December 16, 1929, no. 292.

²² Law of December 14, 1929, arts. 6-10.

²³ No. 2137, *G. U.*, December 21, 1929, no. 297. The party has had four statutes: the first was promulgated on November 23, 1921, under authority of the Central Committee of the newly-organized P.N.F. (Text in P.N.F., *Le origini e lo sviluppo del fascismo* (Rome, 1928), pp. 161-171); the second, dated October 8, 1926, was approved by the Fascist Grand Council (Text in P.N.F., *Il Gran Consiglio nei primi cinque anni dell'era fascista* (Rome, 1927), pp. 219-228; the third was contained in the R. D. December 20, 1929, no. 2137, cited; the fourth (and present) statute is in the R. D. November 17, 1932, no. 1456, *G. U.*, November 21, 1932, no. 268.

ent statute is found in the royal decree of November 17, 1932.²⁴ Addressing the first meeting of the National Corporate Council on April 22, 1930, Mussolini remarked upon the appropriate inclusion in its membership of a representation from the party which, "having made the Revolution, can never be a stranger to the institutions which the Revolution has itself established in every field."²⁵ Hence, ensuing years found the P.N.F. acquiring more steadily the characteristics of an institution of public law, becoming officially identified with nearly every branch of governmental activity, until, eventually, it could be said that the party had become more than an "institution of public law"—that it had become an "organ of the state." The conferment upon the secretary of the party of the status of "minister" as of January 23, 1937, completed the third phase of the evolutionary process.

III

This unprecedented metamorphosis creates, at the outset, a problem of identification. When, precisely, does a "political party" complete its evolution as an "organ of the state"? Certainly the simple fact that the statute of the P.N.F. is contained in a royal decree is insufficient; corporations and other legal persons operating under a charter from the state do not thereby become organs of the state. Nor is conferment of a constitutional position upon the Fascist Grand Council sufficient of itself to give the same status to subordinate organs of the party or to the party as a whole; the Fascist Grand Council, in the regulation of party matters, remains a creature of *Il Duce*. The fact that the secretary of the party became an *ex officio* member of various state boards and councils was inconclusive; various private individuals have, from time to time, been called upon to render the same service without becoming organs of the state. But in the absence of positive statutory definition of the relationship between the party and the state, it is possible to form a judgment based upon the official preponderance of the party in the state, evidenced by (1) the opinions of legislators expressed in legislative debates and reports and the declarations of high official and political leaders; (2) the statutes which, taken in the ensemble, make the rôle of the party a condition indispensable to the operation of the state machinery; and (3) the decisions of Italian tribunals, particularly in the field of administra-

²⁴ Cited above.

²⁵ Mussolini, *Scritti e discorsi*, VII, 192.

tive law. Note may also be taken of the opinions of the authorities on Italian constitutional law.

At the time of the discussion in the Chamber of Deputies concerning the project which eventually became the law of 1928 on the Fascist Grand Council, the *relatore* announced that the Grand Council was being made a constitutional organ and, simultaneously, the party was being incorporated "in a certain sense" into the state.²⁶ At the *Quinquennale* of the régime early in 1929, Mussolini noted that the P.N.F. was steadily taking on the characteristics of an organ of the state; by September, 1929, he had become convinced of the need of establishing those characteristics more securely. Hence, when the Chamber discussed the law of 1929 on the reorganization of the Grand Council—a measure which also contained regulations for the organization of the party as a whole—the *relatore*, Amicucci, declared that with enactment of the measure: "The party has thus *completely become* an organ of the state . . . The project of law perfects the incorporation of the party into the state."²⁷ This represented the official point of view, even though the legislation was equivocal, and even though some tribunals subsequently held it to be devoid of juridical significance.²⁸ Much has been heard of the first of Mussolini's reasons for seeking to abolish the Chamber of Deputies—that is, the need of setting up a more adequate form of economic representation. But in his speech of November 18, 1933, Mussolini also announced another: "The Chamber presupposes a world which we have destroyed; it presupposes a plurality of parties . . . Since we have annulled this plurality, the Chamber of Deputies has lost the essential reason for its being."²⁹ The present Chamber is "Fascist;" the new Chamber will be both "Fascist and Corporative." So, at least, Mussolini indicated in his address before the National Corporate Assembly on March 23, 1936.³⁰ The Italian press has

²⁶ *Relazione* November 6, 1928, XXVII Legislature, Chamber of Deputies, Doc. 1638.

²⁷ *Relazione* December 5, 1929, XXVIII Legislature, Chamber of Deputies, Doc. 325-A.

²⁸ *Gabani c. Partito Nazionale Fascista*, Trib. Ancona (Labor Section), February 13, 1932, *Massimario di giurisprudenza del lavoro*, 2 ser, VIII (June, 1932), 307.

²⁹ *Scritti e discorsi*, VIII, 270.

³⁰ *Popolo d'Italia*, March 24, 1936. By its resolution of November 19, 1936, the Grand Council appointed a committee of five, consisting of the president of the Chamber (C. Ciano), the secretary of the party (Starace), the minister of justice (Solmi), the minister of national education (Bottai), and the minister of corpora-

long since cultivated the habit of referring to the *Camera dei Deputati* as the *Camera Fascista*; even the unofficial publications of the Chamber are now issued under the new title,³¹ although a formal enactment is necessary in order that the change in title be made effective for all purposes.

A clue to the nature of the Fascist party in relation to the state may be found in the position of the *Capo del Governo* as *Duce* and of the *Duce* as *Capo*. Imperceptibly, the position of the *Capo* has undergone a change with respect to the party, and today the terms *Capo* and *Duce* are used interchangeably for certain purposes. The laws of December 9, 1928, and December 14, 1929, concerning the organization of the Fascist Grand Council and the party statute of December 20, 1929, conferred, in specific terms, certain powers of appointment upon the "Head [*Capo*] of the Government, Prime Minister, Secretary of State," while the latest party statute of November 17, 1932, confers some of these powers upon the *Duce*. Thus, the secretary of the party, once appointed by royal decree upon proposal of the *Capo*, is now named by royal decree upon proposal of the *Duce*. Mussolini advises the king, upon occasion as *Capo*, upon occasion as *Duce*; and, what is significant, when the *Duce* advises the king upon the signature of royal decrees he is acting as a "minister" in the most technical sense. Since, therefore, the party statute is now contained in a royal decree, and the *Duce* advises the king as he might advise him as *Capo*, there is more than a personal union through *Duce-Capo* to identify the party with the state. From this point of view, the first article of the statute of 1932, defining the *Partito Nazionale Fascista* as "a civil militia, at the orders of the *Duce*, in the service of the Fascist state," deserves to be taken literally rather than rhetorically. At the beginning, one spoke of Mussolini as *Capo* when describing his official capacity as a minister of the state, and as *Duce* when speaking of his unofficial position in the party. Today, with the party a part of the state mechanism, and the *Duce* an official adviser to the king, the distinction has less than its former validity.

tions (Lantini), to formulate concrete proposals concerning the membership and organization of the new Fascist and Corporative Chamber. Definitive action is indicated during the course of 1937.

³¹ As, for example, the publication, *Opere sul fascismo possedute dalla biblioteca della Camera Fascista al 28 ottobre 1934* (Rome, 1935), which bears the imprint of the *Segreteria generale della Camera Fascista*. In his foreword, Count Costanzo Ciano, president of the Chamber, refers to the work of the *Fascist Chamber*; and the compiler, Dr. Damiani, describes himself as librarian of the *Fascist Chamber*.

Much has been said of the Fascist Grand Council as an organ of the state.³² It is now only necessary to remark that the members of the Council enjoy the immunities of members of the Senate and Chamber of Deputies;³³ that they are given special protection in the penal code of 1930 against attacks upon them and against those who would vilify them;³⁴ that as members of the party they enjoy a protection from the disciplinary action of the party secretary greater than that enjoyed by members of the legislative bodies;³⁵ that the secretary of the party may, *ex officio*, be designated as the substitute for the *Capo del Governo* in the presidency of this constitutional organ. The rôle of the Council in relation to the designation of subsequent heads of the government is clearly defined in law. The fact that the Council must be consulted on measures of a "constitutional" character before the council of ministers and Parliament take action indicates, at least, a chronological supremacy. One of the interesting by-products of Fascist legislation is that Italian law now recognizes a special set of laws as having a "constitutional character," whereas such a distinction had not been made in the *Statuto* of 1848. These capacities of the Grand Council are alone inconclusive in defining the party's position in the state; but taken in connection with the great mass of legislation of which they are only a part, they lend authority to the final conclusion.

In the form of a brief summary, there may be indicated the more notable official points of contact between the party and the state, apart from the position of the Grand Council on matters of a constitutional character and its responsibilities in the preparation of the electoral list:³⁶

1. By the law of December 27, 1928 (no. 3123), a representative of the party, appointed for a four-year term by royal decree, was brought into the membership of the provincial administrative *giunta*. Subsequently, by the local government law of March 3,

³² See R. Sofia, *Le legge costituzionale e il Gran Consiglio del Fascismo* (Palermo, 1931).

³³ Art. 9, Law of December 9, 1928.

³⁴ Arts. 289, 290.

³⁵ Art. 9, Law of December 9, 1928; Art. 22, Party Statute, 1932. Disciplinary action against Council members may be taken only with authorization from the Council; Fascist legislative members may be disciplined by the secretary of the P.N.F. (but not by inferior officers).

³⁶ Electoral Law of May 17, 1928, no. 1019, *G. U.*, May 21, 1928, no. 118, included in the *Testo Unico* of September 2, 1928, no. 1993, *G. U.*, September 8, 1928, no. 210, supp.

1934,³⁷ the *giunta* was made to have four representatives of the party, designated by the party secretary. Hence the party is given an official voice, as such, in the most important administrative council of the province; but beyond this lies the political relationship between the prefect and the federal secretary of the party. Even though Mussolini once promised to abolish duality of authority and to relieve the prefect from the danger of control and domination by the federal secretary, this purpose has not been realized in practice.

2. Since January 14, 1923, the armed forces of the party (M.V.S.N.) have been included among the official armed forces of the state.³⁸ The original militia has been supplemented by other militia performing functions in special fields: railroads, ports, posts and telegraphs, forests, roads, and airport. It will be observed that a militia organization has thus been set up to protect the régime in the vulnerable points at which revolutionary activity might develop.

3. The party statute of 1932 brings into the membership of the national directory of the party representatives as such of certain governmental departments: the Ministry of the Interior, the Ministry of Corporations, and the Commandant-General of the M.V.S.N.

4. Since December 17, 1932, membership in the party or in the juvenile *Fasci* has been a prerequisite for the taking of state examinations. Hence the former requirement that candidates for admission into the public service be of good "political character" has been more precisely implemented.³⁹ But it is not sufficient that this requirement should have been satisfied at the time of admission; the application of extreme measures of party discipline (expulsion) against a member is sufficient to terminate his connection with the public service.⁴⁰

5. Of the greatest legal and constitutional significance is the

³⁷ No. 383, *G. U.*, March 17, 1934, no. 65, spec. supp; Steiner, "The Italian Law on Communal and Provincial Government," *National Municipal Review*, XXV (September, 1936), 524.

³⁸ R. D. no. 31, *G. U.*, January 20, 1923, no. 16.

³⁹ Decreto del Capo del Governo, December 17, 1932, *G. U.*, December 21, 1932, no. 293.

⁴⁰ Art. 20 of the party statute of 1932 reads: "The Fascist who is expelled from the P.N.F. is banned from public life." Whether this automatically applies to Fascist members of the legislature upon their expulsion from the party is not clear.

royal decree-law of January 11, 1937,⁴¹ which confers upon the secretary of the P. N. F., in addition to his other qualities, "*the title and the functions of a minister, secretary of state.*" As early as 1928, the secretary of the party (Turati) was summoned to attend sessions of the council of ministers, and his capacity so to participate was confirmed by the party statutes of 1929 and 1932. But before 1937 his actual participation depended upon the summons of the president of the council.⁴² Now, as a minister *ex officio*, he occupies the government bench in the Senate and Chamber of Deputies and enjoys the right of advising the king, as he is advised by his other ministers, upon the issuance of royal decrees. The party secretary is expected to make use of the instrument of the royal decree to give effect to measures which, heretofore, have been simply party instructions, published in the *Fogli d'ordini* of the party and the *Fogli di disposizioni* of the secretary. The relationship between Mussolini and Starace becomes substantially identical with that existing between Hitler and Hess. In addition, the party secretary continues to be *ex officio* a member of various other state agencies, such as the Central Corporative Committee and the Supreme Defense Council.

6. Especially significant has been the function of the party in the sphere of corporate action. (a) The Labor Charter was prepared by the Fascist Grand Council⁴³ and, while it never was formally enacted as a statute, subsequent legislation has established the Charter as a basic standard to guide corporate agencies and has authorized the government to issue rules with legal force for its execution;⁴⁴ (b) the law of March 20, 1930, on the National Corporate Council,⁴⁵ brought the vice-secretaries of the party into the Council and confirmed the membership of the secretary in the Council and in the Central Corporative Committee; (c) the Law

⁴¹ No. 4, *G. U.*, January 23, 1937, no. 18, effective on the date of its publication.

⁴² Turati was summoned by R. D. December 16, 1928, *G. U.*, December 27, 1929, no. 301; Starace, by R. D. December 14, 1931, *G. U.*, December 19, 1931, no. 292.

⁴³ April 21, 1927, *G. U.*, April 30, 1927, no. 100. The publication of this party deliberation in the journal reserved for laws and decrees is a significant circumstance. A. Giannini, *Tendenze costituzionale* (Bologna, 1933), 265; D. Donati, "L'efficacia costituzionale della Carta del Lavoro," *Archivio di studi corporativi* (February, 1931).

⁴⁴ Law of December 13, 1928, no. 2832, *G. U.*, December 24, 1928, no. 298.

⁴⁵ No. 296, *G. U.*, March 28, 1930, no. 74.

of February 5, 1934,⁴⁵ on the organization of the corporations provided that they are to meet under the presidency of a minister or under-secretary of state, or the secretary of the party, as the *Capo del Governo* may determine; (d) the decrees establishing the twenty-two category corporations provide for the inclusion in each of three representatives from the party. In no other aspect of the work of the Fascist régime has the party been so apparent and vital, whether officially or unofficially. Mussolini has summoned the party to protect, defend, and motivate the corporate state as its most precious creation. As one writer, paraphrasing his words, has put it: "Only the party can prevent the system from becoming static and conserve perennially the dynamism of corporate action. Only the party can surmount all class-feeling and factional pressure. Only the party can moderate the differences between the productive categories, harmonizing them in the superior interests of the nation."⁴⁶ In the work of the party's provincial intersyndical committees (in each province) and price committee (in Rome) is found the essential clue to the practical operation of the corporative state. The price committee of the party, which has functioned for several years, was first recognized officially in the royal decree-law of October 5, 1936.⁴⁷ The lira having been devalued on that date, the government realized the necessity of preventing speculation and price increases; but instead of calling upon the formal machinery of the Ministry of Corporations, power was given to the party price committee to fix the wholesale and retail prices of all commodities offered for sale. Heavy penalties, in addition to personal and political pressures, give effect to the decrees and orders issued by the price committee (and by provincial intersyndical committees) in the performance of this quasi-legislative function. But for several years before their formal recognition, the party committees had actually been in control of the situation.

⁴⁵ No. 163, *G. U.*, February 20, 1934, no. 42.

⁴⁶ C. Petrone, "Il Partito e le corporazione," *Politica sociale*, VI (May-June, 1934), 181-184. Secretary Starace reported in a similar vein to the National Directory, February 5, 1935, as quoted in *Sindacato e corporazione*, LXIII (February, 1935), 293-294 (footnote).

⁴⁷ No. 1746, *G. U.*, October 5, 1936, no. 231; complete text in *Popolo d'Italia*, October 6, 1936. On the early function of the party with respect to prices, see D. Gardini (chairman of the price committee), "L'azione del Partito sui prezzi," *Commercio*, VII (June, 1934), 340-342.

IV

On May 20, 1932, the Court of Cassation handed down a judgment of fundamental importance concerning the legal relationship between the party and the state. This was the Maddalena case,⁴⁸ which arose upon a not unusual situation of fact, and in which the Cassation held that a member of the party hierarchy held the status of "public officer." Maddalena, a party member, had protested with undue vigor against a disciplinary measure taken against him by a federal (provincial) secretary, whereupon he had been charged with the crime of *oltraggio* against a public officer.⁴⁹ The court of appeals at Naples decided that certain party hierarchs enjoyed the status and immunities of public officers when performing duties of a public character specifically imposed upon them by law, e.g., as when members of the Grand Council prepared the national electoral list of candidates for election to the Chamber of Deputies under the law of 1928. Otherwise, the lower court held, a party official enjoyed no protection as a "public officer." This holding was reversed by the Court of Cassation, which first satisfied itself that the Fascist party was not a mere political "party" in the traditional sense: "It is not an aggregate professing the same political opinions, working within the state and sometimes against the state. . . ." Then, after a thorough analysis of political declarations and pertinent legislative enactments relating to the party's rôle in public affairs, the Cassation concluded: "The *Partito Nazionale Fascista* should be considered as an organ of public law, and its hierarchy, whether collegial, central, or peripheral, as invested with public functions and thus as public officers, even when, as in the present case, they are exercising disciplinary functions over persons inscribed in the party."⁵⁰ The Maddalena case related to the status of federal

⁴⁸ *Foro italiano*, 1932, pt. II, 209, reversing judgment of the Court of Appeals at Naples, *idem.*, note; also in *Scuola positiva*, 1931, pt. II, 505.

⁴⁹ In the sense of Art. 207 of the Penal Code of 1889, then applicable: "Anyone who, by word or act, offends in any way the honor, reputation, or dignity of a member of Parliament or of a public officer in his presence and because of his functions, is punished"

⁵⁰ The fundamental difference of opinion between the Court of Cassation and the court of appeals is reflected also in the opinions of writers. The following, among others, support the view of the Cassation: C. Caltelli and E. Romano di Falco, *Commentario teorico-pratico del nuovo codice penale* (Rome, 1930), II, pt. 1a, §810; E. Battaglini, "Diritto di censura e diffamazione anche in relazione alla natura giuridica del Partito Nazionale Fascista," *Giustizia penale*, 1930, pt. I, 1004; A.

secretaries, but its principle was also applied to local secretaries. In the Dolce case, for example, action was begun against a local secretary whose peculations with party funds were held properly triable under Article 314 of the Penal Code which related to the defalcations of "public officers."⁵¹

The doctrine that members of the party hierarchy are to be regarded as "public officers" is broad enough to apply to the secretary of the party, to members of the party directorate, and to the federal and local secretaries and federal and local directories. It does not, however, give that status to the rank and file of the party membership. The jurisprudence which developed with respect to party organs, speaking strictly, has also been applied to its affiliated institutions, such as the Voluntary Militia of National Security and the *Dopolavoro*.⁵²

While most of the courts accepted the view of the Court of Cassation, the absence of positive enactment has given other tribunals leeway for various interpretations. On at least one occasion, a court went beyond the conception of the Cassation to endow the provincial federations of the party with the status of "constitutional organs."⁵³ Tribunals have also used various approaches to the question. Whereas the Cassation looked to political pronouncements and the implications of legislative enactments, the tribunal at Salerno thought that the "public ends" which the party served transformed it into "a great institution of public law."⁵⁴ To clarify

Visco, *Milizia, Partito e sindacati nell'ordinamento giuridico* (Rome, 1931); G. Verna, "Il Partito Nazionale Fascista 'associazione privata'?", *Rivista penale*, 1932, pt. I, 603; A. C. Jemolo, "Natura giuridica del P.N.F.," *Rivista di diritto pubblico*, 1929, pt. I, 544-555; R. Messimi, "I gerarchi del fascismo e la pubblica funzione," *La pretura*, 1932, p. 309. The following were in opposition: B. Liuzzi, *Il Partito Nazionale Fascista nel diritto pubblico italiano* (Rome, 1930); B. Cassinelli, "Il segretario politico del P.N.F. non è pubblico ufficiale," *Scuola positiva*, 1931, pt. II, 505-512; F. Mancini, "Il segretario del P.N.F.," *Vita forense*, 1931; and N. Levi, *I delitti contro la pubblica amministrazione* (Rome, 1930), 81 ff.

⁵¹ Dolce case, Tribunal at Turin, March 30, 1934, *Giurisprudenza delle corti regionale*, 1934, pt. II, 215; cf. Maresca case, Pret. Osimo, May 7, 1934, *Foro italiano*, 1934, pt. II, 373 n. The praetor at Caltanissetta reached a similar conclusion, without the same examination of principle, in the Tulumello case, April 24, 1930, *Giurisprudenza italiana*, 1931, pt. II, 133.

⁵² "B" case, Court of Appeals, Venice, December 16, 1932, *Foro venezio*, 1933, p. 723, on the M.V.S.N.; Marini case, Cassation, January 25, 1933, *Foro italiano*, 1933, pt. II, 438, on the *Dopolavoro*.

⁵³ *Bocelli c. Feder*, Tribunal at Savona (Labor Section), November 19, 1932, *Diritto del lavoro*, VII (March-April, 1933), pt. II, 126.

⁵⁴ *Bellelli c. Paladino*, November 30, 1931, *Massimario di giurisprudenza del*

the situation, especially with respect to the application of labor legislation to the employees of the party (office staffs, newspaper editors, and others), there is now felt the need of legislative definition. Until this is brought about, tribunals will differ in the application of principles concerning the party character in precise cases. But while this confusion may continue for some time, the basic principle has been judicially defined: the party is an organ of the state, and its officers are thereby entitled to rank as public officers.

While this discussion has been concerned primarily with the juridical position of the Fascist party in the Italian state, it must be remembered that there is no sphere of Italian life in which the party has not made its influence felt. As Mussolini has put it, the party performs an "apostolate" and "gives to the authority of the state the meaning of a faith."⁵⁵ An important social function is assumed by the party, which, through the *Dopolavoro* and its affiliates, administers an educational (propaganda) program; and which, through insurance and welfare activities, maintains a relief program. In the military sphere, the M.V.S.N., in which all able Fascist party members are now obligatorily enrolled,⁵⁶ constitutes one of the armed forces of the state—not alone for internal police, but for external purposes as illustrated in the Ethiopian campaign. Administratively, the party supplies the public personnel. Politically, the party lays down the line of public policy and is responsible for the program of Fascist indoctrination. Especially significant have been party activities in the economic sphere. Here, the party directs the application of state-decreed economic principles, not only through extra-legal pressures but through its intersyndical and price committees. It is notorious that the "corporations" upon which the corporate state theoretically depends were not brought into life until 1934; yet the party had, before that time, supplied the power which made the corporate state a reality in the 1920's. Nor has the party confined its activities to continental Italy: its Fascist Colonial Institute has for many years cultivated an intensive colonial and expansionist propaganda; its M.V.S.N. fought

lavoro, 2 ser., VIII (June, 1932), 307; *ibid.*, Naples Labor Magistracy, February 7, 1933, *Diritto del lavoro*, VII (March-April, 1933), pt. II, 124. Cf. M. La Torre, "Sulla figura giuridica degli impiegati del P.N.F. ed organi indipendenti," *Massimario di giurisprudenza del lavoro*, 2 ser., VIII (June, 1932), 308-314.

⁵⁵ *Scritti e discorsi*, VII, 141. (Speech of September 14, 1929.)

⁵⁶ Decision of the Directory of the P.N.F., May 17, 1936.

POLITICAL LIBERTY TODAY: IS IT BEING
RESTRICTED OR ENLARGED BY
ECONOMIC REGULATION?

T. V. SMITH
University of Chicago

The liberty of any given citizen is inhibited by four great enemies. The first enemy is outer—the inhibition of the liberty of one by the liberty of others. The other three are inner enemies—illness, poverty, ignorance. The outer enemy is commonplace to political scientists. And so it is this inner triumvirate against freedom which I wish first and mainly to discuss. Worst of the three is ignorance.

Pure liberty would consist simply in doing what one wants to do. Illness is enemy to this ideal not merely because illness weakens wants, but also because it aborts the very formation of virile wants. Poverty is enemy not only because it stunts the growth of healthy wants, but because it circumvents efficacy of efforts to fulfill any and all wants. Ignorance, however, is worst of the three, not only because it fortifies the other enemies, inner and outer, but because it also converts such regulation of elemental wants as is made inevitable by civilization into the psychological poison of aggression and thereby estops fructifying sublimation of the crasser forms of freedom. This inner enemy No. 1 operates most invidiously when it becomes the superstition of the autonomy of the economic in the hierarchy of life's values. The cause of general human freedom—assuming this as the full meaning of "political liberty"—requires nothing today so much, therefore, as the putting of the economic in its place. This rectification is necessary before the problem of freedom can be approached without paralyzing prejudice. Let this, as well as the fact that I am a philosopher, be my apology for concentrating upon the general.

The current primacy accorded the economic comes not by divine right. Indeed, what in a civilized life is the place proper to the economic is not yet clear. This very lack of clarity, opened to remedy by acknowledgment, is frequently converted into a dogmatic usurpation of the prime place for the economic. From this preëminence it can be, and ought to be, dislodged. The indubitable fact that man cannot live without bread is raised by simple logical error into the faith that bread is all important in the life of man: its pro-

duction, its distribution, its consumption. Utility is primary only in the life of animals, if indeed in the life of animals. As for humanity, man the animal is also the animal Man. Give him luxuries and he grieves little for the necessities. In proper perspective, man's distinctive life is in his reach, seldom in his grasp.

What foreshortens his reach is less obviously subject to regulation than what lessens his grasp; and yet we have not hesitated to legislate against man's vaguer enemies, ignorance and illness, in the interest of his greater freedom. That ancient sphere of anarchy, paternal prerogative, we have invaded to compel school attendance in order to grapple with the enemy, ignorance. We have widened the police power of the state to compulsory immunization against certain diseases, to inspection of food and water, to disposal of garbage and waste. Even tomorrow, the right of men and women to enjoy syphilis in secret and the right of doctors not to know or to know and not to tell, threaten to follow into oblivion the earlier unmolested right to have, to hold, and to scatter smallpox or to sport in public the blessed evidences of mumps. Whence arises the fear to deal regulatively with the obvious enemy of freedom—poverty—when we have so heroically and so effectively been dealing with the less obvious enemies—ignorance and illness? The temper that points with pride to all acts consummated in a given direction and views with alarm all proposed acts in the same direction—this temper is justly suspected of suffering from some logical distemper or of being inhibited by some distorting phobia. Whatever the final explanation, there seems to be at work a deadly deference for the whole of the economic, as there remains a superstition defensive of diseases still paradoxically labelled “social.”

I. STRANGE ECONOMIC BEDFELLOWS—CAPITALISM AND COMMUNISM

How deep, indeed, lies this presumed generalized immunity from regulation of the economic may be seen in noting that the superstition constitutes the strongest bond common to capitalism and communism. What we do not easily see in ourselves we may clearly enough discern in our enemies—especially when the enemies are such blood kin as communists are to capitalists. The soviet Marxist veritably believes that economic classes are the basis of all strife and their abolition the *sine qua non* of justice. From this doubtful belief the Marxist goes pell-mell to the even more doubtful faith

that the economic is made ethically poisonous by the injection into it of motives of privacy. Purify the economic of this poison of privacy and you will, he seems to believe, purge it of all its putridity. Direction of the communally-owned is supposed to awaken no cupidity, to stir no sleeping preference for power. Thus purged through communal ownership, capitalistic malevolence becomes communistic benevolence merely by a relocation of the ownership of means of production. Whence arises this miraculous transvaluation of values?

From this fact: that the devil of communism was deity to the classical economists, at whose knees Marx learned his catechism. The most abiding characteristic of the "divine" in all periods, let us remember, is that it lies beyond human control. Roughly, the economic did, and perhaps does, lie beyond the control of economists. (This is so largely because it is heavily intermixed with the political, which they cannot control.) The economists have softened the hard-boiled secularity with which they sought to compensate for the divine nexus of their subject-matter, have done so through the belief that what is beyond control does not in this event need to be controlled. It operates beneficently because it somehow controls itself with our good as increment, earned or unearned. The step which transforms what is beyond control into that which controls itself for our good prepares us psychologically (though the logic of this is not written into any syllogism) for a third step: that which we cannot control, controls us. Trifle with it at your peril! Let it alone and be blessed! By these steps, or some such steps as these, we see the economic given primacy, for better or for worse. As long as this primacy appeared generally to be for weal, the autonomy of the economic was thought to be maintained by some beneficent even if invisible hand. When it came to appear to be for woe, deity was transmuted by Marxism into devil; and—such hold has the bizarre on man!—Marxism set about the conversion of this devil into proletarian deity. Behold, as in a dream, the rise of a classless society merely by converting the economic from private to communal ownership!

These words, "deity" and "devil," are of course vague terms; but capitalism and communism are themselves symbols to conjure with—esoteric and grandiose, expansive and exciting. They shed little light, perhaps; but—oh, my fellow-politicians—what warmth they carry, what heat they generate! And what a falling off in

fervor—my fellow-countrymen—when we renounce these soul-chilling, these heart-warming words!

II. A CORRECTION OF PERSPECTIVE

Renounce them we must, however, not merely because they proceed upon the all-or-none logic characteristic of intellectual adolescence, but also because they carry the false implication of both the autonomy and the primacy of the economic in human life. Doth not all human experience conspire to cast doubt upon these claims? The very effort to define "property," or "the private," or "the communal," will teach the analyst better than to believe in the autonomy of the economic. Observation of childhood can disabuse us of any notion that the useful rather than the playful or the pitiful, or even the holy or the beautiful, is primary in human experience. Reading of the poets, those ageless super-surgeons of the soul, will arrest this error. An hour with any genuine artist will teach us more of man than a year with all the economists can. And, finally, if with the too acculturated nostalgic we seek classical authority, let us remember that in Plato's dream of a more just justice and in Aristotle's conception of a more legal law traders were degraded, artisans were only half free, and the whole of the economic was put where the child's conduct, the artist's lessons, and the grown man's reverie suggest—at or near the bottom of the hierarchy of human goods. How little unsuborned universal experience there is which supports the notion that the economic is such in nature or location that interference with it *must* somehow depreciate liberty!

But that it may do so I do not deny; I do not even doubt: anything *may* do anything—or nothing. Such is the latitude of the incidence of the possible upon the actual. What *must* be so, however, is for the gods; what *may* be so is for men. I do not doubt but that the classical thinkers under-played, as we have got into the habit of over-playing, the significance of the economic in relation to human freedom. If what I have said about communism and classicism serves to suggest the sterility of the all-or-none principle, I am now prepared to dismiss extremes and with the caution of compromise befitting a politician to make my main point. It is twofold: (1) we do not yet know at what point political regulation of economic life yields diminishing returns to liberty, not even for a given *locale* like contemporary America; and certainly we have

no formula authentic for universal applicability; and (2) we have urgent motivation for trying to find out more than we know, from the fact that our former deference to the economic has proved sufficiently unfruitful, in both its capitalistic and its communistic forms, to be always threatening to undermine the, anywhere prevailing economic structure by overthrowing the given political controls thereof.

III. FREEDOM IS OF THE WHOLE MAN

For our guidance in this no-man's-land between all-or-none simplicities, it is not enough to see the over-simplification of the "economic man." Even Walter Lippmann has seen this, and still he talks, with Herbert Hoover, in the all-or-none mood which tends to identify regulation and regimentation. We need to see, indeed, the complexity of man political and to understand the articulation of man's several sectors with what is certainly one sector, the economic. We need to free the mind's eye from pre-occupation with dogma so that we can watch with all three eyes the effort necessitated by circumstances to achieve a regulation that is not regimentation. Fear of regulation has more than once delayed remedy past the hour of moderation. Along with income as motive of conduct, we must evaluate security and deference, inquiring particularly as to the mutual sublimatory potency of each of these three motives for the frustrations arising from the others.

Assuming for this general inquiry that the main question is not whether we shall continue to have, as we have had, much economic regulation, but who is to do the regulating, for whom, how, and why;¹ assuming, furthermore, that politicians can learn self-restraints as well as others can, from both prudence and principle—assuming all this, I affirm the faith that in America today political liberty is being enlarged by economic regulation. I say "faith" advisedly; for I do not suppose that I can conclusively prove anything in a field as imaginatively affluent as that marked by omnibus terms like "liberty" and "political."

But what cannot be either assumed or proved may nevertheless be argued, and amicably to argue a proposition may be to appre-

¹ Discerning readers will here and elsewhere perceive my indebtedness to Mr. Harold D. Lasswell. Reference should be made particularly to his latest book, *Politics: Who Gets What, When, How?*

ciate or to depreciate its plausibility. In this spirit, and with reference to this modest goal of plausibility, let me warm to my argument by now asserting outright that liberty has the wide spread of that trinity of motives already imputed to it. Whatever furthers any human motivation enhances liberty, unless it contracts another motive more than it expands the one. Comfort, money, and fame—these are man's main quests; and the limitation of one through regulation may conceivably mean, and according to my thesis does mean in America, the furtherance of one or both of the others. Whether a given regulation enlarges the total liberty of man depends, of course, upon the ranking of motives and the sublimatory resiliency of citizens. There is no need to argue about the N.R.A., A.A.A., or what not, until we are cleanly quit of some dogmatic assumption that regulation must mean regimentation.²

This clear, we can criticize proposed regulation in the light of alternatives, rather than damn it with a dogma. If regulation of profit, for instance, stirs up such aggressions as to foredoom to failure the substitution of pride or safety as adequate further motivation for those regulated, then for them much is lost. A miser who loves only his money has not much left to love when his money is lost. But not all need be thus lost save to misers. It is this belief in non-economic compensations for economic loss which founds the faith that economic regulation, even when it means less profit, may effect in a democracy what it does not easily effect out of a democracy, i.e., the general enlargement of liberty. A democratic philosophy may indeed empower men to say, with Filene the merchant: "Why shouldn't the American people take half my money from me? I took *all* of it from them."

Now economic regulation may be but the prevailing rules of the game, and so remain unobserved; or it may take the observed but indirect form of tariff regulation, currency control, use of the budget for humanizing the business cycle; or it may squint at the

² Forgiving Mr. Hoover—for he knows not what he says—and passing Mr. Walter Lippmann by—for he knows more than he says—let us focus eyes for a moment upon Mr. Ogden Mills, that average, earnest, befuddled citizen. Denying that there is "any middle ground," Mr. Mills continues: "We can have a free country or a socialistic one. We cannot have both. Our economic system cannot be half free and half socialistic." (*Liberalism Fights On*, p. 70.) Could anything be more impercipient than that? Not only *do* we have what Mr. Mills says cannot be, but such a middle course is, when seen objectively, just the desideratum of a democratic society.

collectivistic by fixing prices, lowering or raising hours of work, or intensifying or lessening friction which comes from conditions of work and from forms of association in and out of work. Let us, for convenience, agree to cover the whole of the economic under the head of income, and let us illustrate the matter in this more stringent realm of regulation. Does anyone deny that the raising of a worker's income may enhance the worker's liberty? He had better not deny it; for in doing so he is denying that the liberty of employer is involved, negatively, in the regulation. What is sauce for the goose is sauce for the gander—in terms of liberty, that great sauce-bowl of human life. Let us go one step farther: does anyone deny that the worker's liberty may be enlarged by improving his security, even though his income remain the same? Or by adding a cubit to his pride through enabling him to have some voice in management, even though neither his income nor his security were thereby increased? These conditions grow more and more contrary to American fact, to be sure; but, putting the matter at the extreme, does anyone doubt that men so prize security and deference—or even deference alone—that they will, for the sake of this, composedly enough suffer loss of property, diminution of income, and recession of the whole physical standard of living?

I cannot suppose that anyone doubts this, for it is a matter of daily knowledge: of introspection if not of observation. But liberty consists in doing what one wants to do—and, we may now add by common consent, in being what one wants to be. Since in general we must admit that a man is free when he feels and keeps on feeling that he is free, we must come out with the conclusion that political regulation may enlarge the economic freedom of some men and may enlarge the general freedom of some, with or without the enlarging of their economic freedom.

The truth is that politicians are always interfering with somebody's economic freedom for the sake of somebody else's freedom, economic or otherwise; and if the intended beneficiaries are pleased with the results, their freedom is enlarged. If all cannot be benefited at the same time, then some at one time and some at another, with the hope that it will be a majority at all times. We had best not forget the deep and persistent human feeling that the door to doom and the face of fortune are both justly rotated by Fate, all the gods serenely looking on if not roundly applauding the eternal rotation. Even if, dropping metaphor, there be no logic save that

of convenience and necessity back of the utilitarian criterion, "the greatest good of the greatest number," and if there be no argument save sentiment to back up the Benthamite addendum, "each to count for one and nobody for more than one," these are adequate grounds for our conclusion that political regulation of the economic, which is everywhere actual, may become desirable through enlarging rather than restricting human freedom in general.

IV. WHAT IS POSSIBLE AND ACTUAL IS DESIRABLE,
IF ACCEPTABLE

So far, however, I have been arguing like a philosopher and an ignorant man—arguing about what is possible and claiming that we do not know enough to deny the possibility of enlarging political liberty through economic regulation. I have felt it necessary to do this because the economists, driven by some hidden dogma of necessity, have tended either to deny the possibility of actual regulation or to affirm the impossibility of anything coming out of it for liberty. If either observation of men or reflection upon the complexity of their motives gives us a free field of possibility, then I am content and prepared to argue probabilities inside this field of established possibility.

We shall save ourselves a lot of confusion here if we put the matter as simply as we can. If enough men want a shifting of economic advantage to get it, and enough men keep on wanting the shift to maintain the machinery of it, then human freedom is being enlarged by the given regulation. Success of regulation, or lack of it, can be measured—whatever economists may think to the contrary—only by the willingness of men to put up with the results. The extent of the regulation is important only as determined by what is crucial—the method of it. The method is crucial, because it largely determines the limits of tolerance toward its results. It determines the economically unearned increment of value for the beneficiaries, which accompanies the economic regulation; and it also determines the compensation possible to those regulated, as regards sublimation of the aggressions normally accompanying the withdrawal of liberties.

Let it now be clear that what I have been saying psychologically can be put politically in a phrase: the superiority of the democratic process for purposes of regulation. Any regulation of economic life which can be had by common consent (even if the commonalty

reach no further than acceptance of it as only less bad than the other visible alternative) is potential of liberty enlargement. For what wise one is willing to become a plain wiseacre by denying to men the values which they themselves reaffirm in the full light of consequences?

Beyond the point where economic loss through regulation means eventual economic gain through better purchasing power and enhanced morale, the loss of economic liberty through regulation may, then, compensate itself with such increments of freedom as are connoted by security and deference. This compensation, possible for all, is easy for those in whose philosophy of life sportsmanship plays a rôle above the level of pretense. Which of our three motives is greater, more conducive to freedom of the entire personality, is not for me to dogmatize. There are men and men *and* men. Some cultures elevate one motive, some another. The economic is not dispensable but is certainly minimizable; the deferential is indispensable and is certainly maximizable. The security *motif* partakes of both the others. The fact that all motives operate in each person reveals the complexity and the endless variety of man. The fact that deference may attach to, and security arise from, economic objects indicates that, but for some narrowing dogma, the economic might widen itself through the social to the aesthetic. Men may devote themselves to *making* money as well as to making *money*, and even to *giving* money rather than making it. We have taken the economic at the narrow disadvantage to which its devotees have reduced it and have suggested that the best can be made of the worst. What best could be made of the best we are not now privileged to inquire. But surely the very year in which we have begun to deal seriously with the expansion of liberty through legislation aimed at enhanced security is not the time to settle with the superstition of a dogma such American prospects as can be really settled only by actual outcomes, measured by future acceptance or rejection at the polls.

V. A SUMMARIZING WORD

I for one take heart from discovering (1) that the dogma of the autonomy of the economic is a superstition, not a necessity; (2) that regulation which is possible and observable is actual; (3) that the regulation which is actual is desirable for freedom so long as it is achieved by common counsel and is maintained by agreement

ever renewable in the shift of shifting consequences; and (4) that such regulation of economic life as we now have in America is friendly to freedom and may be counted upon to continue to be of this sort, as long as democratically achieved and implemented.

To think otherwise, and to act otherwise, is to desert the guardian genius of our Western Way. What of regulation representatives of the people enact constitutes, in the democratic process, an *hypothetical* enlargement of political liberty; what the people themselves accept upon enactment by their representatives constitutes an enlargement *presumptive*; and what the people confirm in the light of fuller consequences constitutes enlargement *demonstrable*. If this faith in democracy be not sound, there exists no public way of proving it unsound. Sound it is if we hold it so and make it so. Faith in its soundness has provided remedies progressively for our ignorance and illness. Such further faith may yet prove remedial of our economic cancer, i.e., the poverty of both unemployment and blighting employment.

CONSTITUTIONAL LAW IN 1935-36

THE CONSTITUTIONAL DECISIONS OF THE SUPREME COURT OF THE UNITED STATES IN THE OCTOBER TERM, 1935

ROBERT E. CUSHMAN
Cornell University

As was pointed out a year ago in this REVIEW,¹ the Supreme Court was able to deal with the cases involving the New Deal which came before it during its 1934 term without any striking enlargement of judicial power and without the announcement of any novel constitutional doctrine. The N.R.A., the Gold Clauses, the Farm Bankruptcy Act, were dealt with by the familiar processes of deciding whether Congress had actually exercised a power not granted to it by the Constitution, or had exercised a granted power in a forbidden way. The New Deal issues which came to the Court during the 1935 term were quite as far-reaching in significance and were certainly not of a routine variety. They involved, in some cases, constitutional clauses never before interpreted by the Court. Some of the federal laws under attack were obviously exercises of delegated powers, but at the same time, they exercised delegated powers for purposes which were novel and which had been commonly supposed not to be within the reach of federal authority. In dealing with laws of this type, the Court brought forward and established as a working implement of constitutional construction the so-called doctrine of "dual federalism."

This doctrine, first labeled and cogently criticized by Professor E. S. Corwin,² holds that the delegated powers of Congress are limited by the existence of the reserved powers of the states. Concretely, it means that the delegated power to tax or to appropriate money raised by taxation may not be used to accomplish purposes which lie within the field of the reserved powers of the states. This doctrine had been used as a supporting argument by the Court when it invalidated the first federal child labor law in the case of *Hammer v. Dagenhart*.³ During the 1935 term, it served as the basic doctrine in several cases and achieved thereby the status of a dominant doctrine of constitutional law.

Two aspects of this doctrine may be noted. First, it is a theory which tends to prevent the extension by implication of federal power. It prevents Congress from controlling, through the technically correct exercise of a granted power, matters which have before been left to state control. It is, in short, a powerful bulwark for traditional states' rights. Second, the doctrine of dual federalism necessitates an important extension of

¹ See Vol. 30, p. 51.

² See his discussion in the first chapter of *The Twilight of the Supreme Court*.

³ 247 U.S. 251, 1918.

judicial power. In applying it, the Court must decide not merely whether Congress is exercising a delegated power, but whether it is exercising that delegated power for a purpose which seems to the Court to fall within the proper range of federal authority; the Court assumes the responsibility of passing upon the purposes and motives which have led Congress to exercise its delegated powers. As Mr. Justice Cardozo neatly puts it, this "extends the processes of a psycho-analysis to an unaccustomed field."⁴ It is clear that the application of the doctrine of dual federalism greatly enlarges the opportunity and the power of the Supreme Court to determine what are essentially issues of national policy.

Since this doctrine represents an important addition to our constitutional law, the cases in which it was applied may appropriately be grouped together and discussed at the outset of this review.

A. QUESTIONS OF NATIONAL POWER

I. NATIONAL POWERS AND THE TENTH AMENDMENT:

"DUAL FEDERALISM"

1. *The A.A.A. Case.* The first case to rest upon the doctrine of dual federalism was the famous case of *United States v. Butler*,⁵ invalidating the A.A.A. This case was spectacular both in the novelty of its constitutional doctrine and in the importance of its result. In it the Court, by a six to three decision, held void the Agricultural Adjustment Act of 1933. This important legislation had sought to meet the basic problem confronting the American farmer—low prices of farm products. For twenty years, farm prices had been falling steadily while prices of the goods which the farmer must buy had either risen or dropped much less sharply. American agriculture had reached a point where the normal farm income was not enough to run the farms and maintain a decent standard of living. Furthermore, the widespread inability of American farmers to buy goods had a depressing effect upon the whole economic structure. The Agricultural Adjustment Act had for its central purpose the raising of the level of farm prices, and the consequent restoration of the farmer's purchasing power. Its declared object was to restore farm prices to the pre-war level prevailing from 1910 to 1914. This was to be done by persuading farmers to reduce their production of basic agricultural products sufficiently to bring about the desired increase in the prices of farm commodities. The farmers who agreed to reduce their production were to be paid by the government, for doing so, enough to make up the loss. These payments were to be made from funds raised by processing taxes levied upon industries which prepared farm products for the market. Floor

⁴ See his dissenting opinion in *United States v. Constantine*, 296 U.S. 287, 1935.

⁵ 297 U.S. 1, 1936.

taxes were also levied upon existing stocks of goods which would have been subject to processing taxes had the law been effective earlier. All of these complicated arrangements were to be worked out in detail through rules and regulations to be issued by the Secretary of Agriculture, who also had power to make marketing agreements and had other subsidiary authority.

Attack upon the validity of the act was made by a Massachusetts corporation which sought to escape the payment of processing and floor taxes. The majority opinion of the Court invalidating the statute, written by Mr. Justice Roberts, ran along the following lines:

First, the processing taxes are not legitimate exercises of the federal taxing power, since they are levied in order to finance a system of regulating agriculture over which Congress has no power. Clearly, the processing taxes were levied to raise revenue—in fact, a great deal of revenue. They brought into the Treasury something more than a billion dollars. In what respect, then, did they fail to meet the test of an ordinary tax for revenue purposes? The Court's answer is that these taxes are an integral and essential part of the complicated scheme for agricultural adjustment comprising the basic purpose of the act. This is a significant and novel limitation upon the power of federal taxation. It had been held in other cases, notably the *Child Labor Tax Case*,⁶ that a federal tax may be in reality not a tax if, by its destructive rates, it is in essence a penalty. By no sort of logic could the processing taxes be classified as fiscal penalties. Their invalidity as taxes lies in the fact that the money which they bring in is to be used to pay for a scheme of regulation lying outside the scope of federal authority. Mr. Justice Roberts refers to them as "expropriations of money from one group for the benefit of another."

Second, the processing taxes cannot be upheld on the ground that Congress is here exercising its delegated power to lay and collect taxes "for the common defense and general welfare" of the United States. It is admitted that a federal taxing statute, even if it is not a bona fide exercise of the taxing power, may be valid if it is a reasonable means for carrying into effect some other delegated power of Congress. It was urged, accordingly, that the processing taxes were aids to the exercise of the granted power of spending money for the public welfare. The majority opinion gives us for the first time an authoritative interpretation of the general welfare, or spending, clause. It is briefly this. The phrase "the general welfare" states the purpose for which money raised by federal taxation may be spent. It is not an independent grant of broad power, unconnected with taxation, to promote the general welfare. Nor does the Court adopt the narrower interpretation that the phrase "general welfare" must be

⁶ *Bailey v. Drexel Furniture Co.*, 259 U.S. 20, 1922.

interpreted to include only the objects falling squarely within the delegated powers of Congress. Under this clause, Congress may tax in order to raise money to be used in promoting a broad national public welfare. Thus far, the opinion seems to be moving in the direction of sustaining the processing taxes unless the Court is willing to decide that the rehabilitation of American agriculture is not an object falling within the scope of the national general welfare. The Court avoids making so shocking a statement by adroitly evading the issue. Having discussed at length what the general welfare clause means, Mr. Justice Roberts states that the Court is not required to determine whether an appropriation in aid of agriculture falls within it, inasmuch as the whole act is void as an invasion of the reserved powers of the states. This brings him squarely to the doctrine of "dual federalism," which he develops at length. Even if the processing taxes are bona fide taxes, and even if the appropriations to aid farmers are made for the general welfare, the fact is nevertheless bad, because the general objective, namely, the rehabilitation and regulation of the agricultural industry, lies within the field of the reserved powers of the states. There is an extensive elaboration of the theory that the granted powers of Congress may not be used for purposes lying within the field of state reserved power. There is a logical difficulty with this doctrine which the Court does not bother to consider. The reserved powers of the states are by definition those powers which have not been granted to the federal government or prohibited to the states. How this body of state power, clearly defined as a residuum of powers not granted, can operate as a limitation upon the very grants of federal power from which it is left over is not made clear. If Congress is actually exercising one of its delegated powers, then, by definition, it cannot possibly be exercising a power reserved to the states. This, however, does not disturb the majority of the Court.

Third, the system of crop reduction benefit payments provided for in the act is, in essence, coercive in character and is therefore a system of regulation falling under the "dual federalism" ban. It had been urged that while Congress might not impose mandatory control upon farmers it was not doing so under the act, but was merely making voluntary agreements which involved the spending of federal funds. Almost from the beginning, Congress has appropriated money for the widest variety of purposes and has, in many cases, made this appropriation of money contingent upon the recipient's doing things which the federal government had no direct authority to command. In short, the argument of the Court, as developed thus far, seems to cut the ground from under pretty much all of our federal grant-in-aid legislation. The majority undertakes to avert any such sweeping consequences of its decision by emphasizing what it regards as the coercive character of the crop benefit payments.

This coercive character arises from the fact that the ordinary farmer cannot afford to pass up so profitable a bargain. This coercive element is said to be lacking in the other varieties of federal subsidies. Mr. Justice Roberts concludes his opinion by a resort to *reductio ad absurdum*. If Congress, through the conditional expenditure of money raised by taxation, may control American agriculture, what, if anything, is left which it may not control? This point is developed with numerous illustrations and with much fervor.

A powerful dissenting opinion was written by Mr. Justice Stone and concurred in by Justices Brandeis and Cardozo. This opinion makes the following points: First, under the principles of sound constitutional construction, the Court is not entitled to invalidate a law because it is unwise. "While unconstitutional exercise of power by the executive and legislative branches of the government is subject to judicial restraint, the only check upon our own exercise of power is our own sense of self-restraint." Second, the processing taxes are ordinary and legitimate excise taxes levied by Congress. Third, the promotion of American agriculture is an object falling safely within the broad concept of the general welfare. Fourth, the payments made to farmers, while profitable to them, cannot be regarded as amounting to a coercive system of regulation. Finally, the fears expressed in the majority opinion, that the spending power of Congress, if upheld in this case, will be so abused as to obliterate the essential lines of our federal system, leads Mr. Justice Stone to remark: "The suggestion that it [the delegated power to spend] must now be curtailed by judicial fiat because it may be abused by unwise use hardly rises to the dignity of argument. So may judicial power be abused . . . Tortured construction of the Constitution is not to be justified by recourse to extreme examples of reckless congressional spending which might occur if courts could not prevent expenditures which, even if they could be thought to effect any national purpose, would be possible only by action of a legislature lost to all sense of public responsibility."

It is clear from the decision in the A.A.A. case that the Bankhead Cotton Act, the Tobacco Act, and the Potato Act were also unconstitutional. In these three laws, Congress did not rely upon voluntary crop reduction agreements, but provided for compulsory crop reduction through the means of destructive taxation supported by criminal penalties. After the decision in the Butler case, these three statutes were, accordingly, repealed.

Some weeks after the decision in the Butler case, the Court held in *Rickert Rice Mills v. Fontenot*⁷ that the invalidity of the Agricultural Adjustment Act was not corrected by the amendatory act of 1935 which

⁷ 297 U.S. 110, 1936.

had primarily sought to protect the statute against the charge that it improperly delegated legislative power. The Court also ordered that taxes which had been paid under the act and which had been impounded pending the decision of the Court should be returned forthwith without reference to any procedural machinery for recovery established in the act itself.

2. *The Municipal Bankruptcy Act Case.* The doctrine of "dual federalism" was invoked also to invalidate the Municipal Bankruptcy Act of 1934. This was an amendment to the general bankruptcy law. It made it possible for any municipality or other political subdivision of a state, if it had become insolvent, to secure in a federal district court a readjustment of its assets and liabilities. It might, in short, go through bankruptcy. The formal consent of the state was made necessary to the operation of the act within its borders, and the consent of a certain proportion of the creditors of the municipality was required in each particular case. The act sought to provide relief for a very acute problem. During the depression, municipalities had found it impossible to make normal tax collections. In January, 1934, more than two thousand cities and other local governmental units were insolvent. Most of these had borrowed heavily and were receiving very little revenue. Their creditors had no means of relief, since there was no property available to satisfy a judgment even if it were secured. In many cases, most of the creditors were willing to scale down the debts in order to secure something, but no such reduction of debt obligations could be enforced over the objection of even a very small minority of the creditors, without impairing the obligation of contracts. The federal act sought to provide a way out of this difficulty. In *Ashton v. Cameron County Water Improvement District*,⁸ it was held to be unconstitutional. The Water District had issued \$800,000 worth of six per cent bonds, and had no assets. It proposed to take advantage of the Municipal Bankruptcy Act to borrow enough money from the Reconstruction Finance Corporation at four per cent to pay fifty cents on the dollar and write off the rest of the obligation. In a five-to-four decision, the majority, speaking through Mr. Justice McReynolds, held that the act was void as an exercise of the delegated federal power to regulate bankruptcy in such a way as to invade the reserved powers of the states. The Court did not deny that the power exercised was the bankruptcy power. The invalidity of the act resulted from the purpose for which the power was used. There is discussion of the resulting infringement of the sovereign authority of the states to regulate the affairs of their municipalities, and the disturbance of the normal equilibrium between state and federal power. A dissenting opinion by Mr. Justice

⁸ 298 U.S. 513, 1936.

Cardozo, with whom Chief Justice Hughes and Justices Brandeis and Stone concurred, pointed out that the sovereign power of a state can hardly be said to be impaired if the operation of the federal statute within its limits is made dependent upon the formal consent of the state. The dissenting justices agreed that an involuntary municipal bankruptcy act would be void, but insisted that all state interests were adequately protected by the statute.

In *Hopkins Federal Savings and Loan Association v. Cleary*,⁹ the Court again invoked the Tenth Amendment to invalidate an exercise of federal power. The case does not involve the doctrine of "dual federalism," but presents a fairly close analogy to it. The Federal Home Owners Loan Act of 1933 provided, amongst other things, that any state building and loan association which had become a member of a federal home loan bank by subscribing to its shares might convert itself into a federal savings and loan association upon the vote of a bare majority of its members and without the consent of the state that created it. The act provided, in short, that a state corporation might, without the consent of the state which created it, become a federal corporation. In a unanimous opinion written by Mr. Justice Cardozo, this was held to be "an illegitimate encroachment by the government of the nation upon a domain of activity set apart by the Constitution as the province of the states." There is careful analysis of the legal nature of corporations and of the vital interest which a state has in all questions connected with their formation and the functions which they are permitted to carry on. The authority of the state over such corporations is a part of its sovereignty or "quasi-sovereignty." The Court does not pass upon the question of whether Congress has the power to create building and loan associations, or to convert such associations, once created, into corporations. It confines itself to holding that the federal government may not exercise power in this field over corporations which the state has created. The doctrine of the case does not apply to situations in which the federal government is exercising, as under the commerce clause, a power which is not only a delegated power but an exclusive power; for no one can contend that the authority to create building and loan corporations is vested in Congress exclusively, assuming that Congress enjoys the power at all.

II. COMMERCE POWER

The Guffey Coal Act was invalidated by a six-to-three decision in the case of *Carter v. The Carter Coal Company*.¹⁰ This act, known as the Bituminous Coal Conservation Act of 1935 had undertaken to stabilize the soft coal industry after the Bituminous Coal Code had gone down

⁹ 296 U.S. 315, 1935.

¹⁰ 298 U.S. 238, 1936.

with the constitutional wreckage of the N.R.A. decision. The deplorable laboring conditions in the soft coal industry, and the cut-throat competitive practices under which soft coal is mined, are matters of common knowledge. The Guffey Act sought to do two major things: first, to establish satisfactory working conditions in the industry; second, to stabilize prices in such a way as to prevent cut-throat competition and provide a basis for fair wage payments. A Bituminous Coal Commission was created, with authority to formulate a working agreement in the nature of a coal code. Under the provisions of this code, as administered by the Commission, the price of coal was to be fixed, while the wages and hours of labor of the miners were to be regulated and their right to bargain collectively protected. A tax of \$15 per cent was levied on the sale price of coal at the mine. Any producer, however, who filed an acceptance of the coal code established by the Commission was entitled to a drawback of 90 per cent of the tax imposed. Thus a code of fair competition was to be established by a technique wholly different from that used in the N.R.A.

The opinion of Mr. Justice Sutherland, speaking for the majority, may be summarized thus: First, it is apparent, and in fact it was admitted by counsel for the government, that the tax imposed by the act is a penalty rather than an exercise of the delegated power of taxation. This, however, does not make it invalid if it can be shown that such a fiscal penalty is being used in aid of some other delegated federal power. The government frankly admitted that the excise tax could be held valid only on the ground that it was a legitimate means of exercising the commerce power. If the Guffey Act could not be sustained under the commerce clause, it certainly could not be sustained under the taxing clause. With all of this the Court agreed. Second, Mr. Justice Sutherland turns to an examination of the theory that the Guffey Act could be sustained as a measure to promote the general welfare. The preamble to the act had stated that this was one of its purposes; but the briefs for the government had not advanced any such theory as part of the constitutional argument. The majority opinion, however, expounds with lucidity and thoroughness the unsoundness of the doctrine that the federal government has inherent power to deal with all problems affecting the nation as a whole, and has in this way a general and undefined power to promote the general welfare. This theory had been sponsored by President Theodore Roosevelt and dubbed the "New Nationalism." It had been presented to the Court by the Attorney-General in the case of *Kansas v. Colorado*,¹¹ and Mr. Justice Brewer had disposed of the doctrine in a trenchant paragraph. The present opinion reviews this whole problem elaborately and repudi-

¹¹ 206 U.S. 46, 1907.

ates the theory that the national government enjoys any undelegated inherent powers, except perhaps in the field of international relations. Third, the act is not a legitimate exercise of the power to regulate interstate commerce, inasmuch as it undertakes to regulate the conditions of labor in the mining industry. The Court emphasizes that a line exists between the production of goods and the later shipment of those goods through the channels of interstate commerce. To regulate the conditions of labor is to regulate local and intrastate affairs. This Congress has no power to do. Reference is made to the distinction drawn in the *N.R.A.* decision between those conditions and transactions which affect interstate commerce directly and those which affect it indirectly. The Court concludes that the labor provisions of the Guffey Act are not regulations of interstate commerce and are, therefore, void. Fourth, even if the labor provisions of the act were valid under the commerce power, they are, nevertheless, violations of the due process clause of the Fifth Amendment, since they arbitrarily delegate legislative power to representatives of the industry to make binding regulations in the form of a code. This objection was directed to the sections of the act providing the machinery for the fixing of maximum hours of labor and minimum wages. In the language of the Court: "This is legislative delegation in its most obnoxious form; for it is not even delegation to an official or an official body, presumptively disinterested, but to private persons whose interests may be and often are adverse to the interests of others in the same business." Fifth, the labor provisions of the Guffey Act are so intimately tied up with the price-fixing provisions of the act, which were not before the Court in this case, that the entire statute must be held void. The Court does not pass squarely upon the validity of the price-fixing provisions. They would, in all probability, be upheld on their merits. In spite of the declaration of separability found in the act itself, the invalidity of the labor sections is held to vitiate the entire statute. At this point there is perhaps the most elaborate examination of the problem of the partial invalidity of statutes to be found anywhere in the reports.

A vigorous dissenting opinion was written by Mr. Justice Cardozo and concurred in by Justices Brandeis and Stone. They held that the price-fixing provisions of the Guffey Act were valid regulations of interstate commerce, and that they were sharply separable from the labor provisions. They urged that the question of the validity of the labor provisions had been improperly and prematurely raised, since the complainant, not having complied with the provisions of the code, had not been injured thereby. Chief Justice Hughes concurred with the majority of the Court in holding the labor provisions of the act void. He believed however, that the price-fixing provisions of the act were valid regulations of commerce and were separable from the labor provisions.

In 1929, Congress passed the Hawes-Cooper Convict-made Goods Act, which was to become effective in five years. This act, patterned after the Wilson Act of 1890 and the Oleomargarine Act of 1902, provided that prison-made goods transported into any state to be used or sold therein, should be subject to the laws of the state upon arrival therein in the same manner as though they had been produced in the state, and "shall not be exempt therefrom by reason of being introduced in the original package or otherwise." In 1933, Ohio passed a law prohibiting the sale of prison-made goods in the open market. In the case of *Whitfield v. Ohio*,¹² the Supreme Court unanimously sustained the validity of the federal act and also the prohibitory act of the state of Ohio. The case presented no new issues. The Ohio statute is valid. It does not violate the comity clause guaranteeing the privileges and immunities of the citizens in the several states, since it is not discriminatory. The citizens of Ohio are under the same disability to sell prison-made goods as are the citizens of other states trying to bring them in from outside. Furthermore, "the view of the state of Ohio that the sale of convict-made goods in competition with the products of free labor is an evil finds ample support in fact and in the similar legislation of a preponderant number of the other states. Acts of Congress relating to the subject also recognize the evil." The federal statute itself, which divests prison-made goods moving in interstate commerce of their character as articles of interstate commerce while still in the original package, is sustained on the authority of the case of *In re Rahrer*¹³ upholding the Wilson Act of 1890.

While the *Whitfield* case does not make any new constitutional law, it suggests interesting possibilities for the extension of an established principle. It seems obvious that if this type of legislation may be passed affecting convict-made goods, it may also be passed with respect to goods made by child labor. Furthermore, if Congress may authorize the states to exercise police power over prison-made goods or child-made goods which have been divested of their character as articles of interstate commerce by the provisions of an act like this, it could probably go still further and forbid directly, as it did in the *Webb-Kenyon* Act and in the *Reed* Amendment, the shipment in interstate commerce of goods intended to violate the local police regulations of the states. The legislative technique sustained in the *Whitfield* case has, accordingly, been actively urged as a means of extending federal control over child labor in view of the failure thus far of the ratification of the Child Labor Amendment.

The case of *United States v. California*¹⁴ holds that the Federal Safety Appliance Act may be validly enforced against a railroad owned by the state of California and engaging in interstate commerce. Mr. Justice

¹² 297 U.S. 431, 1936.

¹³ 140 U.S. 545, 1891.

¹⁴ 297 U.S. 175, 1936.

Stone wrote the unanimous opinion of the Court. The state contended that it was operating the railroad without profit for the purpose of facilitating the commerce of the port of San Francisco and that it was, therefore, engaging in its sovereign capacity in a public function. Had the federal statute undertaken to tax the state-owned railroad, this argument would have had relevance. But the situation is different when Congress is exercising the exclusive grant of power to regulate commerce. The Court draws a careful distinction between the present case and those in which state instrumentalities have been kept free from state taxation. This point is worth quotation. "The analogy of the constitutional immunity of state instrumentalities from federal taxation, on which respondent relies, is not illuminating. That immunity is implied from the nature of our federal system and the relationship within it of state and national governments, and is equally a restriction on taxation by either of the instrumentalities of the other. Its nature requires that it be so construed as to allow to each government reasonable scope for its taxing power (see *Metcalf & Eddy v. Mitchell*, 269 U. S. 514, 522-524), which would be unduly curtailed if either, by extending its activities, could withdraw from the taxing power of the other subjects of taxation traditionally within it. Hence we look to the activities in which the states have traditionally engaged as marking the boundary of the restriction upon the federal taxing power. But there is no such limitation upon the plenary power to regulate commerce. The state can no more deny the power if its exercise has been authorized by Congress than can an individual."¹⁵

III. TAXATION

The question when is a tax not a tax was raised again in the case of *United States v. Constantine*,¹⁶ and again the Court invalidated a federal taxing statute on the ground that it imposed a penalty rather than a tax. The act involved was a provision of the Revenue Act of 1926, which imposed a \$25 excise tax on all retail liquor dealers, and then imposed a special excise tax of \$1,000 on such dealers when they carry on the business of selling liquor contrary to the law of the state or municipality. Fine and imprisonment are provided for failure to pay this special tax. Mr. Justice Roberts, speaking for six members of the Court, holds that this

¹⁵ The so-called Lindbergh Act of 1932, as amended in 1934, was interpreted and enforced in the case of *Gooch v. United States*, 297 U.S. 124, 1936. The Court did not pass squarely upon the validity of this federal kidnapping act, inasmuch as no attack seems to have been made upon its constitutionality. The Court held, however, that an officer who is unlawfully seized and carried away to prevent the arrest of his captors is "held for reward or otherwise" within the meaning of the act. The conviction of Gooch for this offense was accordingly sustained.

¹⁶ 296 U.S., 287, 1935.

\$1,000 tax is not a tax, but is a penalty for the violation of state law and as such is an invasion of the reserved powers of the states. It is admitted that the provision was valid as long as the Eighteenth Amendment was in force, since Congress under that amendment had full power to enforce national prohibition and impose penalties for violation of the law. The repeal of the Eighteenth Amendment has withdrawn that federal power. The tax in question bears all the earmarks of a penalty. It is imposed only upon those who are engaged in committing a crime. The amount of it is exorbitant when viewed from the standpoint of normal taxing policy. The conclusion follows that the purpose of the act is to punish and deter unlawful conduct.

Mr. Justice Cardozo, with whom Justices Brandeis and Stone concurred, dissented. He attacked the inference of the majority that the act must be regarded as a penal regulation. Congress may have had wholly adequate reasons for imposing a higher tax upon bootleggers than upon those engaged in the lawful sale of liquor. It may have believed that an illegal and furtive business would be more profitable than one openly and lawfully conducted. It may also have believed "that the furtive character of the business would increase the difficulty and expense of the process of tax collection." Congress is well within its rights in classifying businesses into those which are lawful and those which involve trading in contraband goods, and may properly impose a higher tax upon the latter. The dissent closes with a sharp attack upon the practice of resting the constitutionality of a congressional act upon what the Court conceives to be the purpose of Congress in passing it. "The judgment of the Court, if I interpret the reasoning aright, does not rest upon a ruling that Congress would have gone beyond its power if the purpose that it professed was the purpose truly cherished. The judgment of the Court rests upon the rule that another purpose, not professed, may be read beneath the surface, and by the purpose so imputed the statute is destroyed. Thus the process of psycho-analysis has spread to unaccustomed fields. There is a wise and ancient doctrine that the Court will not inquire into the motives of a legislative body or assume them to be wrongful . . . I cannot rid myself of the conviction that in the imputation to the lawmakers of a purpose not professed, this statutory rule of caution is now forgotten or neglected after all the many protestations of its cogency and virtue."

IV. DISPOSAL OF FEDERAL PROPERTY: THE T.V.A. CASE

In *Ashwander v. Tennessee Valley Authority*,¹⁷ the Court passed upon the validity of certain narrow phases of the government's vast and diversified enterprise in the Tennessee Valley. In 1916, Congress authorized the

¹⁷ 297 U.S. 288, 1936.

construction of the Wilson Dam on the Tennessee River in order to generate power for the production of nitrates and other munitions of war. The plant was not finished until 1926, and for some time thereafter it was impossible to reach an agreement as to whether the government should itself operate the enterprise or lease it to private interests. In 1933, the Tennessee Valley Authority was created. This is a government corporation vested with wide and varied powers for developing and selling hydro-electric energy and engaging in a multitude of activities incidental thereto. The T.V.A. embarked upon a broad program of building dams, producing power, purchasing and building transmission lines, selling electric current, manufacturing and selling electrical appliances, and supervising the social and economic welfare of the people, mostly federal employees, in the Tennessee Valley. Part of the T.V.A. policy was to provide a "yardstick" by which the actual cost of producing and selling power could be accurately measured. This was expected to be helpful in the governmental regulation of rates charged by private power companies. In 1934, the Tennessee Valley Authority made an agreement with the Alabama Power Company for the purchase of certain transmission lines and other property. The contract provided for an interchange of hydro-electric energy, a sale by the T.V.A. to the company of some of its surplus power, and a division of the territory within which each was to sell electric current. Ashwander, as one of the stockholders of the power company, sought to enjoin the enforcement of the contract on the ground that the entire T.V.A. enterprise, including the specific contract provisions in question, was beyond the constitutional authority of the federal government.

In an opinion from which Mr. Justice McReynolds alone dissented, the Court upheld the power of the T.V.A. to make and enforce the contract in question. The Court declined to pass upon the validity of the large number of spectacular activities in which the T.V.A. was engaged but which were not involved in the actual case before the Court. The opinion of Chief Justice Hughes emphasized three points. First, under its war power, Congress could validly provide for the construction of dams and of hydro-electric plants, and the production of electrical energy. Second, the building of the Wilson Dam can also be grounded upon the power of Congress to improve the navigability of streams as an incident to its authority to regulate commerce. Third, the Constitution specifically grants to Congress the power "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." This power is broad and general. It permits the government to dispose of surplus electrical energy by sale or lease. Earlier cases had upheld the government in the sale or lease of minerals found on public lands. The government is, accordingly, well within its rights in putting upon the market the hydro-electric energy which it does not need

for governmental purposes. Whether there are limitations upon the government's power to compete in the open market with private power companies is not discussed.

V. THE BILL OF RIGHTS—ADMINISTRATIVE PROCEDURE AND DUE PROCESS

It is a well-established doctrine in our constitutional law that the findings and decisions of administrative officers and agencies which affect private rights must be subject to review by the courts. The precise scope of this review, and particularly the extent to which administrative determinations of fact may be made final, has presented many problems of great difficulty. Court decisions in this field have been governed quite as often by the practical necessities arising out of specific situations as by any logically consistent body of principles which can be called an administrative law. It is settled that the rulings of administrative officers upon questions of law must be subject to judicial scrutiny in order to meet the test of due process. In *Crowell v. Benson*,¹⁸ a divided Court declared that the findings of administrative officers upon what may be termed jurisdictional facts must also be subject to court review. Jurisdictional facts are those facts upon the existence of which the authority of the officer to act rests. There has been much confusion and conflict, however, as to the finality of the other varieties of fact-finding in which our administrative agencies engage.

A notable limitation upon the final authority of administrative officers to determine facts is established in *St. Joseph Stockyards Company v. United States*.¹⁹ While the doctrine of the case is perhaps not new, the decision itself represents a sharpening and clarification of judicial thinking upon the question, even if it does not produce a clarification of our administrative law. The case arose under the Packers and Stockyards Act of 1921. The Secretary of Agriculture, as authorized by the statute, issued an order fixing rates and services rendered in stockyards. The order was based upon an elaborate examination of evidence. The district court took the position that the Secretary's findings of fact, supported by evidence, were conclusive, although the court itself did apparently examine the record thoroughly and agreed with the Secretary's conclusion. The issue presented to the Supreme Court was that of the finality of the Secretary's conclusion as to the facts. The Court was unanimous in upholding the validity of the Secretary's order, but there was sharp disagreement on the issue just stated. A majority of the Court, speaking through Chief Justice Hughes, held that due process of law requires a judicial scrutiny of findings of fact made by administrative officers when those findings of

¹⁸ 285 U.S. 22, 1932.

¹⁹ 298 U.S. 38, 1936.

fact are necessary to the determination of constitutional rights. The rate fixed by the Secretary must, in order to be valid, be non-confiscatory. Whether or not it is confiscatory depends, in the last analysis, upon the facts disclosed as to such matters as net income and valuation. To allow the Secretary the last word in determining these facts is essentially permitting him to settle the basic constitutional question involved. In a concurring opinion with which Justices Stone and Cardozo agreed, Mr. Justice Brandeis argues that the findings of fact made by the Secretary should be regarded as final if they are supported by evidence and if the procedure followed was fair.

The case of *Morgan v. United States*²⁰ holds that it is essential to due process of law that the Secretary of Agriculture, in fixing a rate under the Packers and Stockyards Act, shall himself examine the evidence, hear the arguments, and consider the briefs upon which the rate order rests. In this case, the Secretary issued the rate order, but did not personally conduct the hearing upon which it was based. The hearing was held by an assistant secretary who, on the basis of evidence and argument, found the essential facts. The two officers consulted together and the Secretary issued the order. This is held to deny due process, since the requirements of fair procedure demand that a decision upon substantial rights be made only by one who has personally considered the evidence and the arguments. The Court emphasizes that this does not preclude any device which will aid the officer making the decision by putting at his disposal the advice and counsel of subordinates. The duty, however, "is akin to that of a judge. The one who decides must hear." The case did not raise any issue of the delegation by the Secretary to a subordinate of the power to issue an order, inasmuch as the assistant secretary in this case did not himself undertake to issue the order in question.

An important case affecting the powers and procedure of the Securities and Exchange Commission is that of *Jones v. Securities and Exchange Commission*.²¹ Under the Securities and Exchange Act, securities sold upon registered exchanges must be registered with the Commission. There is first an application to register the securities, accompanied by an elaborate factual statement, and when this application has been acted upon favorably the registration becomes effective. Jones had applied for the registration of certain securities. The day before his registration statement would have become effective under the law, the Commission began a proceeding challenging the correctness of the statements filed and ordered Jones to appear at a hearing some weeks later to show cause why a stop order should not issue suspending the registration of the securities. Jones

²⁰ 298 U.S. 468, 1936.

²¹ 298 U.S. 1, 1936.

thereupon gave formal notice that he withdrew his statement and application, and declined to obey the order to appear at the hearing. This presented to the Court two questions: first, could Jones, under the law, validly withdraw his application for registration?; second, did the Commission have authority to compel Jones to testify at a hearing after his withdrawal of registration?

In a six-to-three decision, the Court upheld the right to withdraw the registration and denied the power of the Commission to pursue the subsequent investigation. Speaking through Mr. Justice Sutherland, the Court held that the right to withdraw, which was nowhere specifically defined in the statute, must be presumed to exist in the absence of express provisions to the contrary. "We are unable to see how any right of the general public can be affected by the withdrawal of such an application before it has gone into effect." The withdrawal of the registration put an end to the Commission's power of investigation. Its power to hold a hearing and compel testimony is incidental to its authority to issue stop orders against registered securities. Since Jones has withdrawn his registration, the power to issue a stop order no longer exists in his case, and he has, accordingly, placed himself outside the range of the Commission's power of inquiry. The Court rules out, with some eloquence, the existence of any general power of investigation in the Commission. It likens any such general power to the power to issue a search warrant not based upon specific statements of fact and suggests a parallel with the "intolerable abuse of the Star Chamber."

Mr. Justice Cardozo dissented in an opinion in which Justices Brandeis and Stone concurred. He declared that the statute was wrongly interpreted in permitting the voluntary withdrawal of a registration statement against which formal charges have been made by the Commission. "To permit an offending registrant to stifle an inquiry by precipitate retreat on the eve of his exposure is to give immunity to guilt; to encourage falsehood and evasion; to invite the cunning and unscrupulous to gamble with detection The statute and its sanctions become the sport of clever knaves." He upheld, in the second place, the authority of the Commission to go forward with its inquiry, and ridiculed the notion that the orderly holding of such an investigation under the terms of the statute is an invasion of constitutional rights. "A Commission which is without coercive powers, which cannot arrest or amerce or imprison, though a crime has been uncovered, or even punish for contempt, but can only inquire and report, the propriety of every question in the course of the inquiry being subject to the supervision of the ordinary courts of justice, is likened with denunciatory fervor to the Star Chamber of the Stuarts. Historians may find hyperbole in the sanguinary simile."

B. QUESTIONS OF STATE POWER

I. THE FOURTEENTH AMENDMENT

1. *Due Process of Law*(a) *Due Process and State Police Power—The Minimum Wage Case.*

The Supreme Court's decision in the New York minimum wage case has provided more effective ammunition for those who are seeking to curb the power of the Court than any decision handed down in recent years. In the case of *Adkins v. Children's Hospital*,²² decided in 1923, the Court, by a five-to-three vote, with Mr. Justice Brandeis not sitting, held the District of Columbia minimum wage law applicable to women and children to be a denial of the due process of law clause of the Fifth Amendment. The Court later followed this case in refusing to review by certiorari the decisions of state supreme courts holding similar state legislation void under the Fourteenth Amendment. There had been, however, within the decade much progress in the field of social legislation; and also a growing feeling that if the minimum wage issue could be squarely presented again, the Supreme Court would find a way to sustain such legislation. In 1933, the state of New York passed a minimum wage law. This applied to women and children in trade and industry. It declared it to be contrary to public policy to employ any one at an oppressive and unreasonable wage. It defined an oppressive and unreasonable wage as one which is "both less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health." A fair wage was defined as one "fairly and reasonably commensurate with the value of the service or class of service rendered." Provision was made for the administration of these wage standards through wage boards appointed by the Commissioner of Labor; and when minimum wages had been set up by these boards, failure to comply with them was made a misdemeanor punishable by fine and imprisonment.

The validity of the New York statute came before the Supreme Court in the case of *Morehead v. New York ex rel. Tipaldo*.²³ The court of appeals of New York had held the statute void on the authority of the *Adkins* case. The Supreme Court, by a five-to-four decision, upheld the state court and invalidated the minimum wage law as a denial of due process of law. The majority opinion was written by Mr. Justice Butler. It proceeds along the following lines: First, the Court is not asked in this case to reexamine the major issues decided in the *Adkins* case. The contention of the state of New York is that the New York statute is substantially different from the District of Columbia act involved in the earlier case,

²² 261 U.S. 525, 1923.

²³ 298 U.S. 587, 1936.

and for that reason may be upheld without reviewing the Court's previous decision. Second, the New York statute is not substantially different from the one previously held void. The minimum wage law invalidated in the Adkins case had set up as the standard for a minimum wage that it be sufficient to maintain a decent standard of living. In the New York statute, two standards are set up. One is the fair value of the fair service rendered. The other is the minimum cost of living. The addition of the standard of a fair value for service rendered does not essentially change the character of the act or make it constitutionally distinguishable from the District of Columbia statute. The New York act is, therefore, void on the authority of the Adkins case. Third, while the majority's argument so far suggests that a minimum wage statute could be drawn which would not rest upon the objectionable standard of cost of living, and which might, therefore, be valid, Mr. Justice Butler proceeds to blast this hope by pointing out that the Adkins Act had established "that the state is without power by any form of legislation to prohibit or nullify contracts between employers and adult women workers as to the amount of wages to be paid." He goes on to explain that while the standard used in the District of Columbia law was arbitrary, it would have made no essential difference had it not been arbitrary, since there is a complete absence of valid authority to regulate wage contracts by any standard whatever. Fourth, the argument that the New York act may be distinguished from the earlier statute on the basis of changed economic and social conditions is summarily disposed of. There are no substantial reasons for regulating the wages of women which do not apply with equal force to regulation of the wages of men, and it is obvious that the majority of the Court remain unshaken in their view that minimum wage legislation is an arbitrary denial of due process of law under any and all circumstances.

Chief Justice Hughes filed a dissenting opinion resting upon two grounds. He urged, in the first place, that the New York statute was substantially different from the one held void in the Adkins case by reason of the incorporation in it of the requirement that minimum wages must conform to the fair value of the service rendered. In the second place, he adds: "and I can find nothing in the federal constitution which denies to the state the power to protect women from being exploited by over-reaching employers through the refusal of a fair wage as defined in the New York statute and ascertained in a reasonable manner by competent authority." Justices Brandeis, Stone, and Cardozo concurred in this opinion.

Mr. Justice Stone, however, filed a separate dissenting opinion in which Justices Brandeis and Cardozo concurred. This opinion ran as follows: In the first place, "I attach little importance to the fact that the earlier statute was aimed only at a starvation wage and that the present one does not prohibit such a wage unless it is also less than the reasonable

value of service." Second, the power to pass reasonable minimum wage legislation for women and minors falls well within the police power of the state. It is not forbidden by "the vague and general pronouncement of the Fourteenth Amendment against deprivation of liberty without due process of law. Mr. Justice Stone adds: "It is difficult to imagine any grounds, other than our own personal economic predilections, for saying that the contract of employment is any the less an appropriate subject of legislation than are scores of others, in dealing with which this Court has held that legislatures may curtail individual freedom in the public interest."

(b) *Due Process of Law and Freedom of the Press.* The attempt of the late Senator Huey Long of Louisiana to stifle newspaper criticism in his state fell afoul of the due process clause of the Fourteenth Amendment in the case of *Grosjean v. American Press Company*.²⁴ A Louisiana statute of 1934 imposed a license tax of two per cent on the gross receipts derived from the sale of advertising by newspapers, magazines, and periodicals having a circulation of more than 2,000 copies per week. The tax applied also to advertisements through moving pictures. It was pointed out in the briefs that only thirteen newspapers out of a total of 163 in the state would be affected by the act, and that of these thirteen, twelve were "active in their objection to the dominant political group in the state, which group controlled the legislature and at whose dictates the legislature passed this law." The reference is, of course, to Senator Long's political machine. In an able opinion by Mr. Justice Sutherland, the Court unanimously holds that this tax is in substance and by intention an infringement upon the freedom of the press. A survey of early English history indicates that taxes upon publications had been a favorite device for restricting the freedom of the press, and the framers of the First Amendment, which protects the freedom of the press, undoubtedly had in mind this type of restraint as well as other forms of previous restraints on publication. It is now well established that the Fourteenth Amendment protects freedom of speech as a part of the liberty which the state may not abridge without due process of law. This was the holding in *Near v. Minnesota*.²⁵ There is no question here of the right of the state to impose upon newspapers within their jurisdiction any reasonable form of taxation. It is obvious, however, that the present statute does not operate, and is not intended to operate, as a revenue measure. Its purpose and effect is to restrain and control publication. "It is bad because, in the light of its history and of its present setting, it is seen to be a deliberate and calculated device in the guise of a tax to limit the circulation of information to which the public is entitled in virtue of the constitutional

²⁴ 297 U.S. 233, 1936.

²⁵ 283 U.S. 697, 1931. For comment, see this REVIEW, Vol. 26, p. 270.

guarantees. A free press stands as one of the great interpreters between the government and the people. To allow it to be fettered is to fetter ourselves."

(c) *Due Process of Law and Criminal Procedure.* *Brown v. Mississippi*²⁶ holds that due process of law has been denied to a person convicted of murder upon the sole basis of confessions shown to have been extorted from the accused by officers of the state by means of torture. There was no dispute as to the gruesome facts of this case. The accused were Negroes charged with the murder of a white man. There was no conflict in the testimony of the witnesses, including the state officers who were present and responsible, that the defendants had been whipped until they agreed to sign the confessions drafted by the prosecuting officers and were threatened with renewal of the torture if they later retracted. The only substantial defense set up by the state was that the constitutional immunity from self-incrimination is not essential to due process of law. This, of course, had been established in *Twining v. New Jersey*.²⁷ Chief Justice Hughes, for a unanimous Court, points out that this is not a simple question of compulsory self-incrimination. He declares: "The state is free to regulate the procedure of its courts in accordance with its own conceptions of policy, unless in so doing it 'offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental.' The state may abolish trial by jury. It may dispense with indictment by a grand jury and substitute complaint or information. But the freedom of the state in establishing its policy is the freedom of constitutional government and is limited by the requirement of due process of law. Because a state may dispense with a jury trial, it does not follow that it may substitute trial by ordeal. The rack and torture chamber may not be substituted for the witness stand."

(d) *Due Process of Law in Taxation.* In *Great Northern Railway Company v. Weeks*,²⁸ a North Dakota property tax on the railroad was held void on the ground that it was excessive and, accordingly, denied due process of law. The Court divided six to three in the case. The majority opinion, written by Mr. Justice Butler, declares that the full and true value of the property is the amount which the owner would be entitled to receive as just compensation were the state or federal government taking it by eminent domain. The state law required assessment for purposes of taxation to be made on the basis of full and true value. The Court admits that the railroad was not subjected to any discrimination as against other property assessed for taxation in the state. It freely admits that the company is bearing no more than its proportionate share of the tax burden imposed by the state. The finding that the assessment is

²⁶ 297 U.S. 278, 1936.

²⁷ 211 U.S. 78, 1908.

²⁸ 297 U.S. 135, 1936.

excessive is based entirely upon the ground that the state had not taken into account, in valuing the property, the falling off in traffic earnings and the value of railroad properties due to the depression. "The board's failure to consider the enormous diminution in value of petitioner's property caused by the 1929 collapse and the progress of the depression is, within the principles of our decisions, the equivalent in law of intention to make a grossly excessive assessment for 1933 in disregard of petitioner's rights under the due process clause of the fourteenth amendment." In a dissenting opinion, in which Justices Brandeis and Cardozo concurred, Mr. Justice Stone insists that the only ground upon which the valuation of the railroad's property could be held to deny due process is by showing either that the assessment is discriminatory or that the company is being compelled to bear an undue share of the tax burden imposed on all property owners in the state. He points out that this is the first time in which the Court has set aside a tax as a denial of due process of law merely on the ground that the assessment on which it is computed is too high.

2. *Equal Protection of the Laws*

Two cases involving questions of equal protection of the laws arose under the New York Milk Control Act. In the first of these, *Borden's Farm Products Company v. Ten Eyck*,²⁹ attack was made on the provision of the statute permitting milk dealers not having "well advertised trade names" to sell milk at a price one cent per quart lower than those having such trade names. This was alleged to be an arbitrary classification amounting to a denial of equal protection. The provision was upheld in a five-to-four decision, Mr. Justice Roberts writing the majority opinion. The differential in question is an incident of the temporary price-fixing experiment upheld in *Nebbia v. New York*.³⁰ Evidence shows that the only way in which independent dealers can compete with large companies having well advertised trade names is to sell at a slightly lower price, and for many years prior to the enactment of the statute this had been the custom of the trade. A balance had been achieved, the advertised dealers gaining from their good will, the independent dealers from the lower price. To wipe out this differential and fix a uniform minimum price would immediately put the independent dealers at a serious competitive disadvantage. The legislature might properly take into account the differing situations of the two classes of dealers affected by the regulation. A brief dissenting opinion was written by Mr. Justice McReynolds and concurred in by Justices Van Devanter, Sutherland, and Butler. The opinion reiterated the views expressed in the dissent of the same justices in *Nebbia v. New York* and held that the present provision adds discrimination to

²⁹ 297 U.S. 251, 1936.

³⁰ 291 U.S. 502, 1934. For comment, see this REVIEW, Vol. 29, p. 45.

the basic difficulty of want of due process. The companies having well advertised trade names are forbidden to compete on equal terms and "may suffer utter ruin solely because of good reputation, honestly acquired."

The same New York statute, in licensing dealers who do not have well advertised trade names to sell at the lower price, provided that the privilege should be extended only to those who had been continuously handling milk in a city of more than one million inhabitants since April 10, 1933. Independent dealers entering the business after the date named were obliged to sell at the higher price. In *Mayflower Farms v. Ten Eyck*,³¹ the appellant entered business in the autumn of 1933. In a six-to-three decision, the Court, speaking through Mr. Justice Roberts, held that this is an arbitrary classification and a denial of the equal protection of the laws. It is pointed out that a firm coming newly into the business could not compete with the established independent dealers, because it is obliged to charge the higher price; nor can it compete with the well advertised dealers because of their established good will. It is, consequently, effectually barred from the business. The dissenting justices, Cardozo, Brandeis, and Stone, felt that the question of whether new dealers should be permitted to enjoy the price differential was one of policy, which should be left to the legislature.

II. STATE POLICE POWER AND INTERSTATE COMMERCE

The problem of drawing the precise line at which state police regulations begin to burden or obstruct interstate commerce is, of course, a continuing one. During the year, it arose in three cases deserving brief comment. In *Bayside Fish Flour Company v. Gentry*,³² a California statute required a license of persons engaged in canning fish or producing fish flour and forbade the permitting of any deterioration or waste of any fish taken in the waters of the state, or brought into the state, or the taking or receiving of more fish than can be used without deterioration or waste. There were further protections against depleting any species of fish. This act is held to be a reasonable exercise of the state's police power for the conservation of the supply of fish within the waters of the state. It does not interfere in any direct manner with the interstate business of the plaintiff, a concern which engages in the canning and reducing of fish for sale in interstate commerce; nor is the statute open to attack under the due process or equal protection clauses.

A very similar result is reached in *Pacific States Box and Basket Company v. White*.³³ Here the department of agriculture of Oregon, acting under a state statute, issued orders prescribing official standards for con-

³¹ 297 U.S. 266, 1936.

³² 297 U.S. 422, 1936.

³³ 296 U.S. 176, 1935.

tainers for various horticultural products. Among these were the containers for raspberries and strawberries, which were specified in considerable detail. It was made unlawful to pack or transport for sale or to sell the fruit in containers which did not conform to this standard. The plaintiff is engaged in the business of manufacturing containers for berries different from those required by the act, and alleges that the state requirement conflicts with the standards set in federal legislation and also operates as a burden upon interstate commerce. The Court, speaking through Mr. Justice Brandeis, upholds the state regulations. It finds no conflict with the provisions of the federal Standard Baskets and Containers Act of 1916. It points out that the state requirement is not aimed at the importation or sale of fruit containers, but at their use, and that the effect of the regulation is purely local, taking place after the containers have been brought into the state.

*Hartford Accident & Indemnity Company v. Illinois*³⁴ upheld an Illinois statute forbidding persons, associations, or corporations to buy and sell farm produce on commission in the state unless licensed. The act contained various provisions against fraud and required a bond of \$5,000. The mere fact that a commission merchant handles farm produce brought in or sent out across state lines is not sufficient to prevent the state from regulating the commission business carried on within its borders. Whatever effect the regulation has upon interstate commerce is indirect and incidental, and until Congress supplants it by its own legislation it remains effective. A federal statute of 1930 regulates produce commission merchants engaged in foreign and interstate commerce, but its provisions do not conflict with those of the Illinois act. It furthermore provides that "this act shall not abrogate nor nullify any other statute, whether state or federal, dealing with the same subjects as this act; but it is intended that all such statutes shall remain in full force and effect except in so far only as they are inconsistent herewith or repugnant hereto."

III. STATE TAXATION AND INTERSTATE COMMERCE

There is continuing difficulty in determining the precise techniques by which a state may tax the right or franchise of a foreign corporation to do business within its borders when that corporation is engaged in both interstate and local business. The basic test is, of course, whether the state tax directly burdens interstate commerce. It is roughly accurate to say that in levying the tax, or measuring the value of the privileges for purposes of taxation, the state may use the net income derived from business done in the state as a standard, and is held in so doing not to burden interstate commerce. If, however, it attempts to use the gross income derived

³⁴ 298 U.S. 155, 1936.

from business carried on in the state, both local and interstate, this has been fairly consistently held to be a direct burden upon the interstate commerce done. This problem was involved in four cases which may be mentioned. In *Matson Navigation Company v. State Board of Equalization*,³⁵ a California statute imposed a franchise tax on corporations doing business within the state at the rate of four per cent of the net income derived from intrastate or interstate business done within the state. This was held valid against the claim of the plaintiff that the tax could not be properly levied upon the 22 per cent of their business which was interstate and foreign. The Court, reiterating previous holdings, held that net income is a reasonable basis on which to compute the value of the right to carry on business within any state.

A similar result is reached in *Norfolk and Western Railway Company v. North Carolina*.³⁶ This case upheld a North Carolina tax upon the net income earned within the state by an interstate railway, as a means of apportioning the state's share of the total value of the system. This is held to be no burden upon interstate commerce and no denial of due process of law.

The state of Washington, in 1933, levied an occupation tax upon practically all persons engaged in any intrastate business. The tax was measured by a percentage of the gross income derived solely from the local business done, and did not undertake to tax the privilege of doing interstate business. The rate varied for different occupations, and was three per cent for telephone companies. In *Pacific Telephone and Telegraph Company v. Tax Commission*,³⁷ this tax was held valid against the contention of the company that its local and interstate business were so inextricably tied together that the company was unable to escape the payment of the local tax (assuming it wished to do so) by the abandonment of its local business. The Court found no burden upon the interstate business of the company and concluded: "No decision of this Court lends support to the proposition that an occupation tax upon local business otherwise valid must be void merely because the local and interstate branches are for some reason inseparable."

On the other hand, an occupation tax levied by the state of Washington, and measured by the gross receipts from radio broadcasting from stations within the state, is held to be an unconstitutional burden upon the interstate commerce carried on. This is the case of *Fisher's Blend Station v. Tax Commission*.³⁸

In two cases, the familiar rule is applied that a state may impose upon those engaged in interstate commerce within its borders charges for actual services rendered by the state. The more important of these was the case

³⁵ 297 U.S. 441, 1936.

³⁷ 297 U.S. 403, 1936.

³⁶ 297 U.S. 682, 1936.

³⁸ 297 U.S. 650, 1936.

of *Clyde Mallory Lines v. Alabama*.³⁹ Here the Alabama Dock Commission, as authorized by law, had imposed a fee of \$7.50 on vessels of five hundred tons and over which entered the harbor at the port of Mobile. This fee was to cover the general expenses of policing the harbor, and particularly to prevent the fire risks produced by the discharge of oil into the harbor by vessels and manufacturing plants. The steamship company attacked the statute as being, first, a tonnage duty, and second, a burden on interstate commerce. Speaking through Mr. Justice Stone, the Court upheld the tax as against both of these objections. There is a useful discussion of the meaning of the constitutional prohibition against the imposition of a tonnage duty by any state. Such tonnage duties embrace "all taxes and duties regardless of their name or form, and even though not measured by the tonnage of the vessel, which operate to impose a charge for the privilege of entering, trading in, or lying in a port. But it does not extend to charges made by state authority, even though graduated according to tonnage, for services rendered to and enjoyed by the vessel, such as pilotage, or charges for the use of locks on a navigable river, or fees for medical inspection." The fee imposed in the present case is not a charge for the use of the harbor, but is a reasonable levy to cover the cost of maintaining the safe and efficient use of harbor facilities. The fact that particular vessels are less in need of the service thus provided than others is irrelevant to the validity of the charge. By the same general argument, it is clear that no burden is being imposed upon interstate or foreign commerce. On the contrary, such commerce is being facilitated by the service which the state is rendering and for which it is making a clearly reasonable charge.

A New Mexico statute of 1935 denied the use of the highways of the state for the transportation of motor vehicles on their own wheels for the purpose of sale within or without the state, unless such vehicles are licensed by the state, or owned by a licensed dealer and operated under a dealer's license, or operated under a special permit for which a fee is charged. In *Morf v. Bingaman*,⁴⁰ these requirements were held not to obstruct interstate commerce, but to provide an essentially reasonable charge for the use of the highways of the state.

Another New Mexico statute imposed a tax of five cents per gallon on the sale and use of gasoline. Distributors, defined to include a corporation consuming and using in the state any motor fuel purchased in and brought from another state, were required to pay a license fee of \$25 for each distributing station or place of business or agency. This law was held void as applied to bus lines doing only an interstate business, in the case of *Bingaman v. Golden Eagle Western Lines*.⁴¹ The defendant was a Delaware

³⁹ 296 U.S. 261, 1935.

⁴⁰ 298 U.S. 407, 1936.

⁴¹ 297 U.S. 626, 1936.

corporation operating bus lines which did only interstate business in New Mexico. The Court suggested that if the taxes exacted merely a reasonable charge for the use of the highways they would be valid; but the state court had interpreted the act as imposing an excise tax, and on this construction it is plainly a direct burden upon interstate commerce.

IV. STATE TAXATION OF FEDERAL INSTRUMENTALITIES

The range of immunity from state taxation extended to federal instrumentalities is pushed beyond previous holdings in *Graves v. Texas Company*.⁴² An Alabama statute of 1935 required those distributing, refining, selling, or storing gasoline to pay an excise tax of six cents per gallon upon such distribution, sale, or storage. The defendant received gasoline through the channels of interstate commerce which it was under contract to sell to the United States government in the state of Alabama. This gasoline was stored in tanks within the state, subject to withdrawal under the terms of the agreement. The tax was exacted from the company on the amount of gas withdrawn from storage in the state at the time of its withdrawal, even though the gas was thereupon sold to the United States. The court, speaking through Mr. Justice Butler, held that this tax infringed the constitutional principle which safeguards the federal government against state taxation. The opinion states that the tax is a tax not upon the storage of the gasoline, but essentially upon its use or sale. Thus construed, it would fall under the rule of the *Panhandle Oil Company* case, forbidding the state taxation of sales to the national government. The Court further declares that even if the tax be regarded as a tax on the storage of the gasoline, it would be open to the same objections, since "a tax upon anything so essential to the sale of the gasoline to the United States is as objectionable as would be a tax upon the sale itself. The validity of the tax is to be determined by the practical effect of enforcement."

In a dissenting opinion concurred in by Mr. Justice Brandeis, Mr. Justice Cardozo insists that the tax is a tax upon storage alone and not upon sale, and emphasizes that this pushes the rule of immunity from state taxation far beyond the authority of the *Panhandle Oil Company* case. "If that ruling is to stand, it will equally forbid a tax upon the process of refining, or upon transportation to a market, since these, as much as storage, are preliminaries to sale. Not yet has the immunity of government from indirect obstruction been pushed to that extreme."

V. IMPAIRMENT OF THE OBLIGATION OF CONTRACTS

Several cases during the present term involved the construction of the contract clause. In *Treigle v. Acme Homestead Association*,⁴³ a law of

⁴² 298 U.S. 393, 1936.

⁴³ 297 U.S. 189, 1936.

Louisiana had provided that stockholders of building and loan associations might withdraw as members upon proper notice, and receive back the amount of their investments and a share of the profits. There were detailed provisions as to the way in which these repayments were to be handled. In 1932, these arrangements were modified so as to permit the directors of the associations to use the available association funds for operating expenses, the payment of debts, and the creation of cash reserves for future dividends, before applying them to the payment of withdrawal claims. In short, in a variety of ways, the chance of the withdrawing stockholder to get his money back at all, and to get it back speedily, was limited by the new statute. This is held by the Court to impair the obligation of the contract arising under the earlier act, as well as to deprive the stockholder of his property without due process of law.

In *Schenebeck v. McCrary*,⁴⁴ an Arkansas statute of 1935 which released county treasurers and bondmen from liability in cases where public funds were lost by reason of the insolvency of a bank, and not through the defalcation of the county treasurer, was held not to impair the obligation of any contract. The Court held that no individual taxpayer had any vested interest in the public funds in question, and that no contract obligation surrounded the funds in such a way as to protect them from the change provided for in the statute.

A Louisiana statute provided for the lease of lands which had become the property of the state as a result of judgments for unpaid taxes. These leases contained the clause that the lease should come to an end in case the lands were redeemed by the former owner or sold by the state. In *Violet Trapping Company v. Grace*,⁴⁵ the company had leased such lands at a time when it was possible under the statutes for the former owners to redeem them only by the payment to the state of the full amount of the taxes due, plus penalty and interest. In 1934, it was provided by law that the former owner might redeem his land by payment, on an installment basis, of the actual taxes due. The Court held that this change in the circumstances under which the lessee of the state would have his lease terminated did not impair the contract embodied in the lease. The clause in the original lease making the land subject to redemption was clear and unambiguous, and left the state free to determine the exact terms upon which the land might be redeemed or sold.

⁴⁴ 298 U.S. 36, 1936.

⁴⁵ 297 U.S. 119, 1936.

AMERICAN STATE AND LOCAL GOVERNMENT

State Constitutional Development in 1936.¹ Something more aggressive than the laws of probability determined the fate of state constitutional amendments last year. Yea-sayers dominated nay-sayers in the ratio of three to two. Ninety amendments of the 158 under consideration in 35 states received the electoral imprimatur.² In this general mood of acceptance, only California was steadfastly negativistic, rejecting 16 of the 20 proposed changes. Louisianians, on the other hand, took practically all that was offered—with unselective enthusiasm approving 33 of the 34 amendments on their imposing ballots.

Two general trends—one positive, one negative—seem apparent. First, the passage in Colorado, Florida, Kansas, Louisiana, and Missouri of amendments necessary for state social security legislation indicate that the ray of social responsibility seen in Lloyd George's 1909 budget, somewhat refracted in its passage through the New Deal medium, and necessarily resolved by the prism of the federal system, is definitely to color the future policies of state governments. Second, with the defeat in Michigan of an amendment to abolish all property taxes, in Minnesota of one to eliminate all state property taxes, and in Colorado, Georgia, and Oregon of movements toward general tax limitation, it seems evident that the great depression tax limitation drive is losing popular appeal. Only Nevada reversed this general trend.

A lesson for amendment drafters is inherent in the failure of two measures which were in a general way conscientiously aimed toward public improvement. California's omnibus civil service proposal and Michigan's county reorganization scheme went down to defeat largely because the original proponents neglected to "clear" with all the interested groups.

Banks. Opinion remains divided as to the extent of responsibility attendant upon the holding of bank stock. Whereas Maryland, Ohio, and South Dakota removed the existing double liability (in Ohio, by a vote of 1,078,160 to 24,968),³ Nebraska and Utah refused to do so.

Census. Iowa has finally decided that, without being a rabid centralist, one can efficiently and economically utilize many federal services. Hence,

¹ The writer wishes to express his appreciation to Mr. Stewart Wilson, of the staff of the Council of State Governments, for the use of a bulletin prepared by him and for other materials. The Council bulletin includes all amendments and direct legislation, while this article is limited to the more important amendments.

² No former issue of this REVIEW has noted so impressive a list. It is possible that 1936 was actually an unusually fruitful twelvemonth, but it may also be that, because of incomplete responses to questionnaires in the years prior to 1935, some states voting on amendments were omitted from previous lists.

³ In all cases, the affirmative vote is given first.

she repealed her constitutional provision for a decennial state census (364,536 to 266,713).

Civil Service. California's rejected civil service measure, referred to above, was opposed by civic groups and public personnel executives on the grounds that it was badly drafted, inflexible in form, and designed to cover in, without qualifying examinations, all present incumbents. Not unnaturally, the proposal was supported by employee associations.

Constitutional Conventions. Rhode Island voters surprised everyone in March by rejecting (88,407 to 100,488) a proposal for the much-needed constitutional convention which had been forced through the legislature in the preceding year. New Yorkers voted (1,413,604 to 1,190,275) to hold a constitutional convention in 1938.

Counties—Consolidation: Alabamans frowned on the consolidation of county government in Jefferson county (Birmingham) (69,055 to 99,080), and California, also averse to change, refused to extend to all counties the privilege—now enjoyed by counties of more than 200,000—of merging city and county government (793,050 to 887,235). Montana in effect almost prohibited the abolition or consolidation of counties, for she attached to her consent the proviso that a majority vote of electors in the county affected should be necessary before the step be taken (78,893 to 59,337). Such a majority is rarely obtained. Florida sanctioned the union of Key West and Monroe county. *Home Rule:* Michigan's vaguely worded county home rule measure evoked popular disapprobation. *Salaries:* A wholesome attempt to substitute salaries for fees in Limestone county, Alabama, was unsuccessful (65,329 to 80,467).

Courts—Supreme Courts: In Idaho, the supreme court was given original and appellate jurisdiction on points of law over orders of the Industrial Accident Board. In North Carolina, the number of justices has been raised from five to seven and permission was granted for the court to sit in sections in all cases not involving constitutional questions (257,980 to 168,496). *Local:* Detailed new provisions for districting and for election of district judges were approved in Louisiana. *Criminal Appeals:* Californians want no special court of criminal appeals, it is evident: they defeated the proposal by a five-to-one vote (278,498 to 1,378,765).

Crime Control—Probation and Parole: A modernized mechanism for probation and parole direction was established in Texas, i.e., a board of three members, one appointed by the governor, one by the supreme court justices, one by the court of criminal appeals. At the same time, a self-executing constitutional amendment which sanctioned probation in cases involving a sentence of less than five years was rejected by Alabamans (68,711 to 93,009). Similarly in Nevada, judicial power to suspend sentences in certain cases was denied. *Prisons:* California has authorized maintenance of separate institutions for female felons (879,010 to

871,557). *Criminal procedure*: Prosecution on information filed by the prosecuting attorney as well as on grand jury indictment is now possible in Arkansas. The same state has ratified the simplification of circuit court procedure. In Michigan, the accomplished criminal shot-putter is no longer safe, for it is now legal to use as evidence fire-arms and other weapons seized outside dwellings and on closely adjacent land.

Education.—Retirement: Missouri and Texas have authorized teachers' retirement systems. However, the amendment in the former state is not self-executing. *Freer education*: Free textbooks and school supplies in Louisiana will henceforth make the acquisition of learning even less expensive than formerly (258,051 to 36,360). *No appeal*: Even school teachers did not escape the attacks of California's dissenting majority. Voters in that state registered a determined disapproval of the proposed elected state tenure board which was to have heard appeals by discharged teachers from the decisions of local school boards (438,490 to 1,259,603).

Elections. Satisfied with their present plan, Californians declined to change the permanent registration system now in effect (471,478 to 1,193,690). Louisiana approved the registration of electors (231,990 to 49,294) and removed the restriction against absentee voting by mail (231,868 to 50,150).

Juries. Chivalry persists in the Centennial State. Coloradans rejected an amendment which would have subjected their women to the inconvenience—so strenuously avoided by most men—of jury service. Nevada refused to change her existing rules concerning number of jurors, but voted to permit waiver of jury trial in criminal cases.

Labor. In Montana, all workers except those engaged in farming and stock-raising will henceforth be protected by an eight-hour-day law (105,407 to 101,438); while in Texas state employees will be covered by a workmen's compensation insurance plan.

Legislatures. Arkansas created a legislative reapportionment board consisting of governor, secretary of state, and attorney-general to reapportion the state legislature after each federal census. South Dakotans followed much the same technique, approving (122,381 to 89,949) a measure to limit the size of the legislature (house, 50 to 75; senate, 25 to 35) and to provide reapportionment by the governor, superintendent of public instruction, presiding judge of the supreme court, attorney-general, and secretary of state, if the legislature shall fail to reapportion. Texans adopted a measure limiting the representation of certain large counties.

Salaries of legislators were under question in several states—in most of which attempts at increases were defeated. Delaware is still awaiting action on her legislative salary increase; Missouri rejected a proposal to substitute for per diem payments a monthly salary of \$125; Oregon voters apparently still think \$120 a session sufficient legislative pay, for they did

favor the proposal to re-define by law the salaries of their senators and representatives; Utah voters disallowed an increase from four to eight dollars per day; and Washington refused to permit five dollars per diem for legislators. New Jersey is considering an amendment for special sessions.

Liquor Control. Contrasting strongly with the preceding year of hectic action on this problem was the 1936 liquor record. Oklahomans voted to go dry; California refused to permit local option (719,185 to 1,474,185) and Texans put a negative cross opposite the proposal for a state monopoly with local option.

Municipalities. The languishing home rule movement revived locally in Virginia: cities in that state are now empowered to draft their own charters.

Recent thoughtful amendments have improved the California home rule provisions. It will now be possible on the same ballot to vote on the question of electing a board of freeholders and to signify one's preference for members of that board. Moreover, the legislative body of a city or a city-county unit has also been authorized to frame a charter for submission to the electorate.

Power. When Washington rejected a proposal authorizing state ownership of power plants and wholesale distribution by the states, she left interested political scientists in some doubt as to whether she was favoring public ownership or expressing satisfaction with her many privately owned plants.

Oregon defeated (100,356 to 208,741) an amendment providing for primary administration of the state power act by the board of control. At the same time, an initiated statute for a state-operated power plant (131,489 to 208,179).

Public Property. Governmental bodies in California have been refused permission to acquire art galleries or to enter into contracts or leases with non-profit corporations in the state.

North Carolinians voted (255,416 to 149,086) to restrict increases of the state indebtedness for any biennium to two-thirds or less of the amount which the debt has been reduced in the preceding biennium. South Carolina voters (106,610 to 91,282) to permit the government to engage in public works for the economic development of the state, but indebtedness was limited to one-half of one per cent of the assessed value.

The successful Idaho amendment permits exchange of state lands under agreement with the United States. Minnesota voters (397,106 to 397,106, number of votes necessary, 582,135) adopted Wyoming.

Indiana adopted (426,031 to 398,201) a joint resolution authorizing the state to enter the state militia.

State Officers. Apparently, "public service" connotes more than railroad regulation to Californians, for they defeated (306,831 to 1,332,737) an amendment to name the railroad commission the "public service commission." They also went on record against limiting the present fixed term of six years for commissioners, and refused (748,486, to 1,432,559) to create an alcoholic beverage commission which would have assumed—and extended—the licensing and regulatory powers of the state board of equalization.

Georgia voters indicated that they do not want a lieutenant-governor nor a state superintendent of schools. Nor do they favor lengthening the term of the governor and other officers from two to four years (76,164 to 117,434). Election of the president of the senate was also disapproved.

Louisiana created a department of revenue; repealed the disqualification of legislators for offices created during their term in the legislature (224,937 to 57,888); and made the state treasurer eligible to succeed himself.

Maryland approved a measure which allows the governor to fill vacancies in the legislature; Nebraska abolished the office of commissioner of public lands and buildings; South Dakota approved the non-partisan election of the state superintendent of public instruction and of county superintendents. Salary raises were in order in Texas, where the governor will henceforth receive \$12,000, the attorney-general, \$10,000; the comptroller, treasurer, land office commissioner, and secretary of state, \$6,000 each. Utah rejected appointment of the superintendent of public instruction.

Missouri voters approved the creation of a four-member state conservation commission. In fact, the newly revived conservation pressure group, with a program probably patterned on the Michigan organization, is active in a number of mid-western states. While the efforts to free conservation from "politics" is commendable in intention, it should be noted that creation of these independent commissions is likely to hamper state planning, of which conservation is, of course, an extremely important part.

Social Security. Oklahoma voted (346,950 to 210,888) to create a social security board of its own; while South Carolina empowered the general assembly to enact social security legislation. Colorado handsomely led all states with her minimum pension of \$45 a month for those over sixty. Florida and Kansas voted to devote state funds to the relief of old age assistance (490,173 to 172,473). The latter authorized unemployment compensation and compensation for widows (532,042 to 179,582). A number of other states referred social security statutes.

Taxation. The classified property tax had a tie score

as approving it (242,897 to 152,516) and Georgia rejecting it (65,093 to 149,898). Californians refused (829,440 to 1,061,114) to forbid diversion of motor vehicle fuel and license taxes. Colorado voted a specific graduated ownership tax on motor vehicles. *Income taxes*: Californians disapproved (737,629 to 1,193,225) a measure repealing personal income tax laws and providing for a popular vote on any income tax, and North Carolina voted (242,492 to 178,373) to raise the limit on taxation of net incomes from six to ten per cent. North Dakota and Washington rejected net income tax amendments, but Coloradans authorized a gradual and/or proportional tax. *Tax limitation*: As we noted above, attempts at tax limitation lost out at the polls in five out of six states. Succeeded: in Colorado, an over-all limitation of 20 mills in incorporated cities and towns and 15 mills elsewhere; in Georgia (65,093 to 149,898), a measure for limitations on taxes on several classes of property; in Michigan, the abolition of all property taxes; in Minnesota (355,588 to 347), the elimination of state property taxes except for indebtedness; Oregon (79,604 to 241,042), an over-all limitation of six mills in 1937, and reduced four per cent annually to four and eight-tenths mills in 1940. Only in Nevada (where an over-all limitation of five cents on the dollar was approved) was the movement successful. Apparently the real estate boards must revise their tactics—or subscribe to the broader outlook. Ohio passed (1,585,327 to 719,966) and Michigan defeated measures exempting food from the sales tax. Mississippi refused to authorize a income or sales tax.

Other exemptions were considered more leniently. Colorado belatedly voted exemption of property used solely for religious worship, for schools, for cemeteries, and for strictly charitable purposes. Also, Texas adopted a homestead exemption proposal; North Carolina rejected (312,976 to 166,752) an exemption to \$1,000; and Utah authorized the legislature to raise the existing exemption to \$2,000. A number of minor exemptions were passed in Louisiana.

As indicated above, so heterogeneous are the subjects submitted to popular vote, and so various are the returns on the subjects submitted, that definitive conclusions are impossible. Only in the two fields of taxation and social security legislation is there evidence of a general trend. Impetuous generalizers may chafe at the slow accumulation of significant data, but more patient and cautious students of the subject can console themselves with the hope that, over a long period, the results of this direct legislative process will afford a trustworthy check on the genuinely representative quality of our state legislatures.

GEORGE C. S. BENSON.

University of Michigan.

Extraterritorial Powers of Cities as Factors in California Metropolitan Government. Some students of metropolitan problems have suggested that the granting of extraterritorial powers to municipalities by state legislatures may provide a temporary integration of governmental agencies within a metropolitan region. Inevitably, however, the development of such powers in any extensive fashion must lead to additional confusion in the already tangled web of jurisdictions. The problems of relationship of governmental units are simply multiplied. This is illustrated by the experience of cities in California. A wide range of power has been given by the state constitution and general laws whereby the cities may undertake public utility projects within and without their municipal boundaries as deemed necessary. The courts, for the most part, have been liberal in interpreting extramural powers of cities undertaken both (a) as municipal corporations providing service, and (b) as governing units exercising the police powers. A significant addition to municipal powers has been made by interpretation of the constitutional provision that cities shall have exclusive jurisdiction in "municipal affairs." In an early case that established a controlling doctrine, the court said: "The supplying of water to outside territory, being necessarily a matter incidental to the main purpose of supplying water to its own inhabitants, is as much a municipal affair . . . as is the main purpose, which is conceded to be such, and therefore charter provisions relating thereto prevail over general laws, if inconsistent therewith."¹ In similar matters, the cities become free agents under freeholder charters except as they encounter the jurisdiction or interest of other cities.

The California courts were first called upon to determine the power of cities to build sewers beyond their boundaries when legislation did not expressly permit construction of an outfall. *McBean v. City of Fresno* (112 Cal. 159) became a leading case on extraterritorial powers wherein the rule was stated that if the exercise of powers extraterritorially, was necessary and proper to the performance of expressly granted powers such exercise was valid. An earlier case, *City of Pasadena v. Stinson*, had upheld the power of a city to build its sewer lines along and through the streets of an adjoining city so as to connect with the municipal sewer farm several miles outside the city limits.² So long as the city conformed to requirements of state law, the court refused to regard an underground sewer as a menace to the inhabitants of the city through which the line ran. However, this power of a city to go beyond its area in disposing of its sewage has figured in metropolitan politics in the Los Angeles area on several occasions. Two communities, one suburban and one distinctly

¹ *City of South Pasadena v. Pasadena Land and Water Co.*, 152 Cal. 482. See also *Fellows v. City of Los Angeles*, 151 Cal. 52.

² 91 Cal. 239.

have felt it necessary to incorporate as municipalities in order to prevent neighboring cities from locating sewage farms in their areas. Water has been the determining element that controls the development of cities as well as of agricultural areas in the Western states. At a comparatively early period, cities found it desirable to purchase the many water companies that served within the urban territory and to make a unified municipal service. It has been settled beyond doubt that cities may go far afield in search of a water supply, may purchase and water rights of existing holders, may file on water rights in the domain, and build the necessary dams, reservoirs, and aqueducts to collect and distribute the water. Los Angeles has gone into the Owens Valley, San Francisco to the Hetch Hetchy, and other cities lesser distances to the mountains, for water. Several interesting problems arise as an increasing number of cities compete for the available water rights. What principles shall govern this contest? In the case of *East Bay Municipal Utility District v. City of Lodi* (120 Cal. App. 741), the courts ruled that inasmuch as the defendant city had made no attempt to put the water claimed by it to any public use, it could not prevent the district from condemning its riparian rights for use. The question that next arises is, how much land may a city acquire beyond its borders for development of a water supply system? San Francisco owns large holdings in other counties and leases part of the land for agricultural and club purposes. Los Angeles is reported to own seventy-five per cent of the taxable land in Inyo county and owns substantially all the land in the towns of Lone Pine, Independence, and Big Pine. These cities have become large taxpayers in other counties and cities under a provision of the state constitution that makes property owned by a city within its limits subject to taxation the same as other property.³ They have never been called upon to determine limits to such municipal expansion. In fact, they have taken judicial notice that increased population demands an increased water supply and have upheld purchases of water territorially so long as there is no question of fraud.⁴ In every metropolitan community, there is a cluster of cities surrounding a central city. As a city seeks to convey its water supply obtained within its limits to its inhabitants, it must cross other municipal boundaries. In doing so, what regulations must it observe? One state law grants the franchise privilege to cities to lay utility lines through the territory of other cities, but requires approval of the council in the municipality in which the work is done.⁵ The courts have ruled that the city

³ Constitution, Art XIII, sub. 1; *San Francisco v. County of Alameda*, 20 Cal. 202.

⁴ *City of Lodi v. Board of Water and Power Commissioners of L.A.*, 211 Cal. 70. *Stats.* (1911), p. 852.

of Beverly Hills could not refuse permission for construction of water mains through its territory by Los Angeles, because the latter had plans for the construction under way before the former was incorporated.⁶ A later act removes the necessity for approval by the city through whose territory the utility line will run. However, the use of this general franchise is subject to the "reasonable" regulation by the city council as to routing of the line and other regulations not in conflict with state law.⁷ If the two cities disagree as to terms and route, their only recourse is to the superior court of the county. This franchise grant has been upheld by the courts as not being special legislation. The state has plenary power over the streets and highways and might grant such use thereof as appeared best. It is immaterial whether notice of desire to use the streets constitutes acceptance of the franchise by the city that desires to avail itself of the privilege or whether acceptance is incomplete until terms are settled by a court.⁸ A recent controversy on this point involved the building of a power line by the city of Los Angeles from the Colorado River over a route that ultimately came through the streets of Southgate. The state supreme court refused to entertain the suit by the complaining city or to take the matter from the district court of appeals.⁹ Los Angeles has since completed the line as planned.

A significant distinction exists, however, between the power of a city to interfere with the franchise granted another by the state and the power of a city to issue permits for construction of works within its limits. In the case of *City of South Pasadena v. City of San Gabriel*, the court upheld the delegation of power by the latter city to a municipal officer to issue or refuse a permit for drilling for water within the city limits.¹⁰ The officer had refused South Pasadena a permit to drill or to build a pump station and storage tank upon lands owned by it within the limits of San Gabriel. The court went to a doubtful extreme when it applied a test devised by it to determine if the section in which the drilling was to be done was sufficiently residential to warrant use of the police power to prevent a use that might be detrimental to residence property. The majority of the court determined that, although the section was given over to small farming on lots larger than the usual city lot, the tendency was towards making it a residential community. Hence well-drilling might be prohibited as a potential nuisance. Inasmuch as such cities as South Pasadena are completely surrounded by incorporated territory, this

⁶ *City of Beverly Hills v. City of Los Angeles*, 175 Cal. 311.

⁷ Cal. Stats. (1923), p. 147.

⁸ *City of Los Angeles v. City of Southgate*, 108 Cal. App. 398.

⁹ *City of Southgate and City of Huntington Park v. City of Los Angeles*, 92 Cal. Dec. 301.

¹⁰ 184 Cal. App. 403.

Pasadena v. Railroad Commission, 183 Cal. 527. See also Los Angeles above.

be confusion as to jurisdiction in controlling the sale of water or electricity by one city to another under conditions laid down in *South Pasadena v. Pasadena Land, etc. Co.*, but they have not been called upon to determine the issue. Presumably, conditions must be regulated by inter-city negotiation. South Pasadena finally established its own water system after having purchased from Pasadena for twenty-five years.

Another problem of metropolitan interest has been presented as Santa Monica and Culver City have developed municipal bus services to provide transportation from those suburban communities into Los Angeles. Thus far, the council of the latter municipality has permitted them only to connect with street car lines in the outer sections and has refused permission to operate directly into the central section of the city. Other cities are reported to be awaiting successful negotiations for a downtown terminus before proceeding with plans for municipal bus lines to take care of their interest in the metropolitan transportation problem.

Thus far, efforts of municipalities to enforce ordinances upon corporations beyond their borders have been relatively restricted. The power of the cities to make rules and regulations governing conduct on certain types of property owned outside their limits has been clearly established. A city ordinance governing conduct on a municipal airport outside the city has been sustained.¹⁵ Conduct and control of a mountain playground by a city is not unlike its control of a city park.¹⁶ The leading case on extraterritorial regulation of health affairs has been *In re Blois*. In this case, the power of a municipality to enforce its ordinances upon persons having their business establishment in another city, but doing business also within the enforcing city, was approved.¹⁷ General legislation permits counties and cities to maintain milk inspection service and to make contracts with other counties or cities to perform such work in cooperation.¹⁸ However, the cities of Los Angeles and Pasadena insist upon a somewhat higher standard of inspection and maintain their own inspection services far beyond their municipal borders to inspect milk and its sources. With the development of far-flung water systems, it might be expected that cities would request power to enforce sanitary ordinances on municipally-owned watersheds. However, the fact that water supplies are being drawn chiefly from areas far beyond the metropolitan areas lessens that problem at present.

An ordinance of the city of Oakland provided for inspection of meat that was to be used for food within the city, the inspection to take place at the slaughterhouse whether within or without the city. A large portion of the city's meat supply is slaughtered in neighboring cities. In 1931,

¹⁵ *Ebrite v. Crawford*, 215 Cal. 724.

¹⁶ *Kellar v. City of Los Angeles*, 179 Cal. 605.

¹⁷ 175 Cal. 251

¹⁸ Cal. Stats. 1923, p. 833; amended (1927), p. 1944.

a state meat inspection law provided for state slaughterhouse inspection and authorized municipal inspection under certain conditions. In 1934, the state director of agriculture refused to grant a permit to Oakland under the 1931 act on the ground that he had no power to permit municipal inspection outside city limits. The court applied the rule that a city may exercise powers necessary to and fairly implied from the specific power granted by general law or charter, and thereupon sustained the city.¹⁹ In viewing this use of the inspectional power as essential to the declared purpose of the meat inspection ordinance, the courts may have set a precedent that will allow cities to extend their interest into the surrounding metropolitan area.

A development that shows a better solution of problems of metropolitan government is illustrated by city planning. A 1927 planning act gave cities power to control subdividing and platting of land lying within three miles of the corporate limits and not located in any other municipality.²⁰ A 1929 act modified this power over extraterritorial areas so as to permit a city planning commission to include land outside the city's boundaries in its master plan, but gave no power of control.²¹ The development of county planning commissions authorized to plan the development of unincorporated territories eliminates the necessity for a city using extraterritorial power in that respect. Perhaps the best integration of governmental functions in a metropolitan area that coincides with the county area would be accomplished by transferring such municipal affairs to the larger unit. Likewise, utility services might be transferred to a metropolitan utility district. At present, the development of extraterritorial power in the metropolitan areas of California gives the cities the character of local interest centers competing among themselves for spheres of influence in a complicated jurisdictional scene.

WINSTON W. CROUCH.

University of California
at Los Angeles.

¹⁹ City of Oakland v. A. A. Brock, 86 Cal. App. Dec. 715.

²⁰ Cal. Stats. (1927), p. 1899.

²¹ Cal. Stats. (1929), p. 1805.

PUBLIC ADMINISTRATION

The Recent Movement for Better Government Personnel.¹ Calling the final abolition of the spoils system through the substitution of career service, Franklin D. Roosevelt has come forward with the boldest, the most courageous, and the most constructive step in his career. This program is part of his plan for the reorganization of the administrative structure and the fiscal controls of the government. There may be minor debatable issues. However, the comprehensive program is a weaving together of the best constructive thought of the past generation with regard to American government.

Two years ago, such a proposal would have been chimerical. A favorable reception would have been no less than a miracle. Yet today we find that a consensus of press opinion supports the President's merit system proposal, even where it is critical of the rest of the plans for administrative reorganization. Two years ago, only a small handful of outstanding individuals would have realized the significance of this step. Today, according to polls conducted by the Institute of Public Opinion, approximately 88 per cent of the people are in favor of the merit system. There are large numbers throughout the country who know what better government personnel means, so that it is going to be extremely difficult for any spoilsman to oppose legislation for the full establishment of the merit system. Two years ago, experts in public administration would not have been in a position to advise the President to recommend such sweeping reforms. Today we have an easily accessible body of factual knowledge into which has gone thorough research and years of thought.

The drive for an improvement in government personnel during the last few years is a movement whose spontaneity and vigor have united to make it a truly dynamic force in our national life. A brief review of recent activities of various groups and agencies behind this new personnel movement will throw further light on its inherent strength and what the future can expect from it.

Civic Groups. In the first place, there is the work of the civic groups. Probably the organization that has led the way and accomplished more than any other single group recently is the National League of Women Voters and its state and local chapters. In 1934, the League determined on a two-year campaign for an improved personnel in government. Adopting the slogan "Find the man for the job, not the job for the man," the League has been most successful in making lay citizens merit-system-

¹ This article is based on a report originally presented to the round table on career service at the Atlanta meeting of the American Political Science Association, December 27, 1935. I wish to acknowledge the assistance of Frances Cole in collecting material to bring the report up to date.

conscious. Through its efforts, over 2,000 copies of the report of the Commission of Inquiry on Public Service Personnel have been distributed.

The National Civil Service Reform League, progenitor of the civil service movement and its custodian for fifty years, has practically become a new organization through increased vigor and activity. During 1935 alone, it distributed over 15,000 documents in response to individual requests. Within recent weeks, its new president, Robert L. Johnson, has begun to rally the support of civic groups and business leaders for the President's merit system proposals.

One hundred and eight separate civic organizations joined together, early in 1935, in the United Front for Better Government Personnel to educate their members and the public on the need for improving the public service. Each of these associations has set up a committee on government personnel and has used as a study guide the report of the Commission of Inquiry on Public Service Personnel, *Better Government Personnel*.

November of 1936 saw the establishment of the Pennsylvania Federation for the Merit System for the purpose of waging an aggressive campaign to bring about merit system legislation in the 1937 session. The Federation is composed of 17 state-wide civic and professional organizations.

Only last June, the Connecticut Civic Association was converted into the Connecticut Merit System Association, which is affiliated with the National Civil Service Reform League. Horace D. Taft is its president. In a recent circular letter, the executive secretary, Laurence C. Smith, stated that local units already have been or are being formed in approximately half of the towns and cities in Connecticut, and that over 4,000 pamphlets have been distributed.

Organized Officials. Turning from the civic groups to the organizations of officials, the International City Managers' Association, the Civil Service Assembly of the United States and Canada, and the National Federation of Federal Employees are found in the vanguard. The first organization devoted one of its sessions in 1935 to trained government personnel, with the result that a Career Service Committee was appointed. At the 1936 annual convention, this committee made an excellent report. The Association insists that the managers themselves recognize their responsibilities for their part in the training of young men who are going into the public service by taking them into their administrative service as apprentices or internes in the process of training. The Civil Service Assembly has placed its activities on a permanent basis through the establishment of a headquarters office under the management of a full-time director, the office serving as a clearing house of information on public personnel administration. A monthly *News Letter* was first issued

in June, 1935, presenting the outstanding developments in the field. This bulletin has continued to be probably the best concise statement of current happenings. The National Federation of Federal Employees is one of the older organizations of its kind and continues to rank as the leader among government employee organizations. Throughout its existence it has taken a constructive stand on public personnel policies, which are discussed thoroughly in its monthly magazine, *The Federal Employee*.

Other groups of officials which have been active are the leagues of municipalities, a half-dozen of which have done special, intensive work in public education and in education within their own ranks as to the meaning of a career service in government. The American Association of Social Workers has taken a special interest in the merit system. Practically every month, a discussion of some phase of public personnel problems has appeared in the official publication of the Association, *The Compass*.

Convention Programs. Another index of the change of public opinion is found in the conventions of civic and professional organizations. The International City Managers' Association, the Civil Service Assembly of the United States and Canada, the National Federation of Federal Employees, and the American Association of Social Workers have been mentioned. In 1935, a session of the annual convention of the American Water Works Association was placed in charge of a special committee on government personnel—the first time in the history of this organization that it had shown such pronounced interest in the problem. In 1935, the National Municipal League devoted one session, and in 1936 three sessions, to the subject of better government personnel. At the first convention, a committee was appointed to draft a model state civil service bill. When finished, the bill will be published as one of the League's pamphlet series of model laws. The American Prison Association adopted a strong resolution supporting the merit system and training programs for all prison employees at its annual congress in September, 1936. A resolution empowering the officers of the United States Conference of Mayors to prepare a plan for "assembling data on the training and qualifications necessary for technical and specialized officials of city government and provide ways and means for qualifying applicants and compiling a list of available qualified persons from which municipalities might select suitable persons when desired," was unanimously adopted at the annual Fall conference in 1936. The entire program of the conference of the American Academy of Political and Social Science on November 16, 1936, was devoted to a discussion of improved personnel in government service. This meeting was followed by an issue of the *Annals*, January, 1937, in which papers by many of the outstanding authorities on the subject were brought together. During National Civil Service Reform Week of

January, 1937, conventions were held over the air. There were three nation-wide hook-ups and innumerable local broadcasts, in addition to "listening-in parties" and mass-meetings arranged by civic groups and officials' organizations in many places. The high point in broadcasts was America's Town Meeting of the Air, Thursday evening, January 14, which was devoted to a discussion of the question, "Shall all federal employees be under the civil service?"

In addition, the National Conference of Social Workers, the American Public Welfare Association, the American Library Association, the Consumers' League, the American Association for Labor Legislation, the American Economic Association, the American Statistical Association, the Government Research Association, the American Political Science Association, the Southern Economic Association, the General Federation of Women's Clubs—to name only a few of the interested organizations—have taken up government personnel in special sessions of their conferences. Mention must be made also of the many meetings that the National League of Women Voters has held in its citizenship schools and in its regional conferences, and the nation-wide series of conferences held by the National Federation of Business and Professional Women's Clubs.

Educational Institutions. An outstanding event in formal education is the tangible growth of attention given to public administration in the last two years. In 1935, there were some 35 colleges and universities which offered definite courses in public administration designed to prepare their students to perform more satisfactorily tasks in the public service. Today, over 100 educational institutions offer comprehensive treatment of the subject.

During the last few years, the most conspicuous event was the grant to Harvard University by an American industrialist and former member of Congress, Hon. Lucius N. Littauer, of \$2,000,000 to establish a school of public administration. It is interesting to note that this endowment in 1935 came just 25 years after the establishment by the old New York Bureau of Municipal Research of its Training School for Public Service, an organization which was laughed out of academic circles as unworthy of recognition. Men who took work in the old Training School did not get credit; they had to bootleg their training in administration. A generation has seen the complete transformation of this attitude.

The well known Princeton Conference on Training in Public Service, in 1935, served to crystallize thought on training up to that time and to give greater momentum to the already fast rolling ball. This conference, organized by the Public Administration Clearing House of Chicago, was attended by 28 representatives from public agencies and educational institutions. This highly significant gathering carried forward the discussion initiated by the first conference on training for the public service held in

1915 in New York and continued by the Minnesota conference of 1931 and the Chicago conference of 1934.

The year 1935 marked the extension of the Syracuse School of Citizenship and Public Affairs to a two-year basis. It witnessed the establishment of the National Institute of Public Affairs on a definite graduate level, based upon a first year of experimentation. The School of Public Affairs of Washington University has now established and expanded its in-service training program. At the Harvard School of Business Administration, a study program in public administration was inaugurated "to give the business man a better understanding of the government with whose forces he comes in constant contact, and . . . to aid the community by providing a trained personnel for public business."

The last year has seen the expansion of each of these schools, as well as the addition of new ones. The University of Wisconsin held, in cooperation with the state board of health, a training course for sewage plant operators. Among other universities cooperating in giving post-entry training courses are Ohio State University, the University of Southern California, and the University of Kentucky.

The schools organized by the state leagues of municipalities have gone forward to a finer recognition of their tasks, with larger attendance than ever in their history. In 1935, the New York Conference of Mayors and Other Municipal Officials alone had an attendance of 7,500 public officials in its regular credit courses, and its training school was incorporated as an educational institution by the New York State Board of Regents, recognizing that it had a definite place in the educational system of the state of New York. Within the same year, more than 30,000 firemen attended the state and regional schools which were conducted in 42 states. During one or more of the past five years, training schools of the leagues of municipalities have been held in 20 states. In 1931, approximately 7,000 municipal employees were reached by these schools. By 1936, the total annual attendance had grown to nearly 14,000.²

An interesting development is the establishment of apprenticeship positions offered by nearly all of the 17 public administration associations affiliated with the Public Administration Clearing House in Chicago. Since only one apprentice is ~~taken~~ on at a time by a single organization, there is keen competition, with the result that outstanding college graduates are being inducted into the field. The period of training is nine months, during which a minimum salary is paid. So far, individuals going through this training have immediately received positions in public administration. This system furnishes not only an excellent opportunity for brilliant young men and women to enter the field, but also an excellent

² Arnold Miles, "In-Service Training by State Leagues of Municipalities," *Annals of the American Academy of Political and Social Science*, January, 1937.

means of attracting the best brains and the finest character to the government service.

In Washington, the United States Department of Justice, through the Federal Bureau of Investigation under the direction of J. Edgar Hoover, conducts three types of training schools. The first and oldest is the training period through which recruits of the bureau itself must go before they can become special agents. Second, a three-months' training course for municipal, county, and state police officials was conducted as an experiment in the summer of 1935. This was so successful that it reopened in July, 1936, as the National Police Academy of the Federal Bureau of Investigation. Representatives of 34 police agencies attended this course in scientific crime detection. The purpose of this school is primarily to train teachers who will open similar training schools throughout the United States. Following the National Police Academy come the fingerprint identification schools which are to be conducted for periods varying from half a day to one week in each of the 37 field offices of the bureau. Many of these have, indeed, already been held.

The Graduate School of the Department of Agriculture gave a special ten-weeks' course on elements of personnel administration, which was open to all government employees in Washington, especially those holding supervisory positions or interested in preparing themselves for such positions. Similar work is being carried on by the Soil Conservation Service, which began in the fall of 1936 to select students who have qualified through civil service examinations to take a training course that will be combined with practical work in the field activities of the service. Upon completion of the course, successful candidates will be eligible for promotion into the regular service.

Space does not permit consideration of the varied training given in other branches of the federal service,³ but mention should be made of the training program of the TVA. Under the leadership of Dr. Floyd W. Reeves, personnel director, the TVA undertook the most ambitious employee education-training program ever launched in this country or probably in any other. Coupled with in-service training is a broad schedule of occupational and cultural education intended to develop the inherent skills and capacities of TVA employees to the point where they will be contributing to the project the maximum of their ability.⁴

New Books and Magazines. A flood of publication on government personnel began in January, 1935, with *Better Government Personnel*, the re-

³ For a full statement of this training, see John E. Devine's *Post-Entry Training in the Federal Service*. (Public Administration Fund, August, 1935, 75 pp., mimeographed.)

⁴ Dr. Reeves has described this program in "TVA Training," *Journal of Adult Education*, Vol. 7, No. 1, pp. 48-53.

port of the Commission of Inquiry on Public Service Personnel. The list is impressive.⁵ There has been a stream of articles in magazines varying

⁵ In addition to the publications of the Commission of Inquiry on Public Service Personnel, I would list as the most important:

- American Academy of Political and Social Science, *Improved Personnel in Government Service*. (Annals, Philadelphia, January, 1937, pp. 268.)
- Ayres Brinser, *Our Government—For Spoils or Service?* (Washington, Public Affairs Committee, 1936, pp. 31. Public Affairs Pamphlets, No. 3.)
- Cincinnati Bureau of Governmental Research, *Public Personnel Administration in the City of Cincinnati*. (Cincinnati, 1936, pp. 223.)
- John Edward Devine, *Post-Entry Training in the Federal Service*. (Chicago, University of Chicago, Public Administration Fund, 1935, pp. 73.)
- René Didisheim, *La Formation des Agents de l'Administration*. Synthèse des Délivrations et Conclusions des Conférences de Zurich, Berlin, et Varsovie. (Bruxelles, Institut International des Sciences Administratives, 1937, pp. 51.)
- Katherine A. Frederic, *Trained Personnel for Public Service*. (Washington, National League of Women Voters, 1935, pp. 51.)
- International City Managers' Association, *Training for Municipal Administration*. (Chicago, 1936, pp. 20.)
- International City Managers' Association (Institute for Training in Municipal Administration), *Municipal Personnel Administration*. (Chicago, 1935, pp. 414.)
- Joint Committee on the Merit System, *The Merit System in Illinois*. (By Joseph Pois and others, Chicago, 1935, pp. 62.)
- Morris B. Lambie, ed., *Training for the Public Service*. (Chicago, Public Administration Service, 1935, pp. 49.)
- Lewis Meriam, *Public Service and Special Training*. (Chicago, University of Chicago Press, 1936, pp. 83.)
- William E. Mosher and J. Donald Kingsley, *Public Personnel Administration*. (New York, Harper and Brothers, 1936, pp. 588.)
- National Civil Service Reform League, *The Civil Service in Modern Government—A Study of the Merit System*. (New York, 1936, pp. 26 and appendix.)
- Public Administration Service, *Personnel Administration in the State Government of Michigan; Prepared for the Civil Service Study Commission*. (Chicago, June, 1936, pp. 104, mimeographed.)
- Public Service as a Career*. (Wharton Review of Finance and Commerce, Vol. 9, no. 7, April, 1936.)
- William A. Robson, ed., *The British Civil Servant—Studies by Eleven Experts*. (London, Allen and Unwin, 1937, pp. 250.)
- O. Glenn Stahl, *Training Career Servants for the City of New York*. (New York, 1936, pp. 262, mimeographed. Ph.D. thesis, N.Y.U.)
- Ordway Tead, *The Art of Leadership*. (New York, McGraw-Hill Co., 1935, pp. 299.)
- United States Department of Agriculture (Graduate School), *Elements of Personnel Administration*. (Washington, United States Department of Agriculture, Graduate School, 1935, pp. 102.)
- 74th Congress, 1st Session, House Committee on the Civil Service, *For Improvement of the Government Service*; hearings on H.R. 3980 (Revised). (Washington, Government Printing Office, 1935, pp. 454.)
- 74th Congress, 1st Session, Senate, Subcommittee on the Civil Service, *Extending the Executive Classified Service*; hearings on V. 564. (Washington, Government Printing Office, 1935, pp. 41.)
- Leonard D. White, *Government Career Service*. (Chicago, University of Chicago Press, 1935, pp. 99.)

from the *Saturday Evening Post* to the *Atlantic Monthly*; from the *New Republic* to the *Rotarian*; from *Collier's* to *Scribner's*. The little sheets of the leagues of municipalities and of voters' organizations have special issues or articles on government personnel. The amount of material that has come out in the ordinary course of magazine literature, in the Sunday supplements, and in the regular news columns of our leading dailies, fills many volumes if translated into terms of the ordinary book. In fact, very little has been written during the past year or so concerning problems of government which has not made some definite reference to personnel.

Reports such as that of the National Resources Board or the Treasury Report on the Tax Systems of Great Britain, volumes dealing with social security and with housing—none of these discussions now emerge and are presented to the public without the authors or the sponsors realizing that they have not performed their task unless they have included some consideration of the problem of personnel involved. Compared with the situation existing a few years ago, this gives an index of what has been happening to our thinking with respect to government personnel. It is interesting to note that the Public Affairs Committee, which has undertaken to make the results of research available to the public in simple form, presented the subject of government personnel in one of its first publications, *Our Government—For Spoils or Merit*.

Publicists. The publicists have not only reacted favorably to the new movement but are pushing it along. A small list would include Professor Moley, who wrote several editorials and encouraged the preparation of articles for *Today* on the subject, David Lawrence, Mark Sullivan, Lindsay Rogers, Roger Babson, W. M. Kiplinger, Raymond G. Carroll, Felix Frankfurter, Oliver McKee, Jr., George Creel, Francis Hackett, Dorothy Thompson, Walter Lippmann, Nicholas Murray Butler, James B. Conant, Harold W. Dodds, Glenn Frank, Frank Kent, and others writing specifically on the subject of government personnel in connection with their comments on the national government and its administration.

Straws in the Wind. If there were any doubt as to which way the wind is blowing, George Gallup's polls on civil service would be of interest. He conducted two. The result of the first, published March 29, 1936, showed that 88 per cent of the people favored civil service. In a more recent poll, 86 per cent of the people expressed approval on the question, "Should the entire Post Office Department, including the Postmaster-General, be put under civil service?" The significant fact is in the heavy majorities cast for civil service. In no other poll has a majority exceeded 80 per cent.

Local Government. Much positive action has taken place in local government in the last few years. Civil service provisions were adopted by such larger cities as Bridgeport, Jacksonville, Birmingham, Memphis, El

Paso, Flint, Dearborn, and South Gate, California; and by Jefferson county, Alabama; San Diego county, California; Henrico county, Virginia; Camden county, New Jersey; and the Chicago Sanitary District. Among the smaller cities which have adopted merit systems, those voting last November were Ypsilanti, Adrian, and Muskegon, Michigan; Rahway, New Jersey; and Astoria, Oregon. Ten cities acted during 1936 to place firemen under civil service, and three voted to place policemen under the merit system. Ordinances were passed in Trenton, New Jersey, and Toledo, Ohio, improving employment practices for municipal labor. A law was passed in Michigan allowing any city to have civil service for its fire department, and a Florida statute applied civil service to all cities of more than 130,000 inhabitants. Two important California laws authorized small cities to contract with their larger neighbors for personnel service and permitted all cities to adopt by ordinance any type of personnel system desired. In New York City, Mayor LaGuardia has taken a conspicuous and courageous stand throughout his administration in favor of appointment on the basis of fitness and definite recognition of a career philosophy. Even in the courts, he has insisted that men ought not to be appointed municipal court justices without having had experience in judicial and police administration and without possessing a general understanding of the problems of crime and criminology. His leadership has meant a great deal, and he has never failed, whenever he has discussed the subject, to insist that he is working for a career service throughout the New York City administration.

The States. Since 1920, it has been correct to say that only 10 states have civil service laws.⁶ But on February 3, 1937, Governor Carl E. Bailey signed the Arkansas bill providing for a state civil service system and on February 10 a similar bill became law in Tennessee, making 12 states with merit systems. Which will be next? According to the Civil Service Assembly, the legislatures of Michigan, Tennessee, and Connecticut appear "virtually certain to adopt merit system laws during their present sessions." Merit system legislation of some kind may be expected also in 12 other states this year.⁷ The senate of the California legislature has received a completely new civil service act making changes in the operation of the present system to conform with the constitutional amendment passed in 1934. Civic organizations are rallying to support the new bill. Fifteen governors came out in favor of the merit system in their annual addresses and legislative messages this year. The excellent

⁶ Massachusetts, New York, New Jersey, Maryland, Ohio, Illinois, Wisconsin, Colorado, and California. Kansas has a law, but it has been inoperative since 1919, three years after its adoption.

⁷ Alabama, Arizona, Florida, Georgia, Indiana, Kentucky, Minnesota, Nebraska, North Dakota, Oklahoma, Pennsylvania, and Rhode Island.

report of the Civil Service Study Commission of Michigan, headed by James K. Pollock, must be mentioned in any review of state activities in the field of government personnel.

The Federal Government. As this article goes to press, the federal government stands on the threshold of the most important advance in personnel administration that has been made since the adoption of the Pendleton Act in 1883. On January 12, the President sent his epoch-making message to the Congress, endorsing in its entirety the program of his Committee on Administrative Management, and recommending the reorganization of the government and the extension of the merit system "upward, outward, and downward to include all positions in the executive branch of the government except those which are policy-determining in character." The program as presented calls for the modernizing of the civil service system by placing its administration under a single head and by establishing as the watchdog of the merit system a citizen board of seven members for seven-year overlapping terms. It is proposed also that salaries in the top career posts be increased from approximately \$9,000 to about \$15,000, so as to make these positions more attractive to men and women of superior ability. Under the plan, each department will have its own personnel administrator, as the best managed departments already do, and their work will be coördinated by the civil service administrator, whose relation to the President would be like that of the budget director at the present time. He would devote his attention to recruitment, the stimulation of training, promotion, and interdepartmental transfer.

There is no need of saying that the program, although criticized, particularly by individuals who have in the past made no contributions to the advance of civil service, has received the enthusiastic endorsement of those who have participated during the past five years in the renaissance of the movement for better government personnel.

If in the present sketch one factor stands out more clearly than another, it is this: To move democracy, you not only must develop the facts through research, but you must develop also the vocabulary of the leaders and the support of the masses.

LUTHER GULICK.

Institute of Public Administration.

The Committee as an Instrument of Coördination in the New Deal. Of all criticisms of the New Deal, the one most frequently emphasized is the lack of coördination. Headlessness in policy-framing and sprawling aimlessness in policy execution are twin charges which the Administration has been forced to admit. The recent report of the President's Committee on Administrative Management is an indication that the Administration intends to leave to posterity a good record on this score; but both prac-

tioners and students of government are well aware that no reorganization can be so complete, so perfect in its functional allotment of duties to departments, that the problem of horizontal integration will not still need to be faced and solved. This reminder is less an apologia than an indication of the frame of reference of the present note; those who have been administering the government for the past four years have never been unaware of the need for concerted action among the executive departments, and many attempts have been made to achieve it. A device often employed for the purpose has been the interdepartmental committee.

Approximately 300 interdepartmental committees were in use between 1932 and 1936; and they were assigned every sort of duty, from framing legislative proposals to allotting wave-lengths to government broadcasting stations. In every case the committee was an attempt to bring together representatives of two or more departments for consultation and some sort of coöperative action; and although the committees cannot be forced into rigid categories, several rough classifications may be applied to them. The most obvious, of course, is the distinction between those committees used to achieve coöperation in business management and those which dealt with "service" problems—the familiar distinction between "institutional" and "functional" activity.¹ As between any two departments, it was soon found that in some cases there was needed only an exchange of information regarding each other's policies and activities; in other cases, the need was for parallel framing and execution of policy; and in a few instances, active coöperation was required. As soon as such need was recognized, and if there were available no more direct method of dealing with it, a committee was appointed.

The use of the committee as a device for achieving interdepartmental coöperation is not unique with the Roosevelt régime. Particularly in the area of managerial activity is this true; the Council of Personnel Administration was appointed in 1931, and the Interdepartment Radio Advisory Committee, the National Advisory Committee for Aëronautics, and the National Advisory Health Council, among others, antedate even the Hoover administration. However, aside from those that are continuing entities, interdepartmental committees have left but little spoor; even in the present administration, the number can be known with only approximate accuracy.

Interdepartmental committees have been set up in four ways: by act of Congress, by executive order, by letter or memorandum of the President, and by exchange of letters between cabinet secretaries. The third method has been most widely used, although the important committees have as a rule had the more formal authorization of executive order or statute.

¹ W. F. Willoughby, *Principles of Public Administration* (New York, 1927), p. 45.

Perhaps the most realistic way of delineating in short space the characteristics of the interdepartmental committee will be to give thumbnail sketches of a few typical instances. The salient points of description must include the circumstances under which the committee was set up, the function it performs, its use of an executive secretariat, the essential features of its reporting procedure, and a word of estimate as to its success in fulfilling its assigned task.

Interdepartmental Committee on Civil International Aviation. This is the agency negotiating with various foreign governments for the establishment of proposed international air routes. Set up by executive order, the committee is composed of four assistant secretaries: R. Walton Moore, Department of State; Stephen B. Gibbon, Treasury; Harllee Branch, Second Assistant Postmaster-General; and John M. Johnson, Department of Commerce.² Behind the initial order is a story of several months of informal study and consultation by the State Department, both with other departments, with foreign governments, and with airline officials. An informal liaison was established by an exchange of letters between the Secretaries of State and Commerce on October 11, 1933; and inside the State Department a special committee was appointed to study the legal and diplomatic aspects of the proposed negotiations.³

The committee's task is simplified by the fact that only one airline in the United States is large enough to undertake a trans-oceanic air service; only Pan-American Airlines replied to the published notice of negotiations. The committee's procedure includes consultation with the Commerce Department to fix safety regulations for airports and travel inside the United States; with the Treasury Department to arrange customs inspection; with the Post Office to provide for transportation of mail; and with other departments not represented on the committee, as the War Department and the Immigration Service of the Labor Department. When these preliminary arrangements have been made, and when the legal divisions of the State and Commerce Departments have approved the form of the agreements, the Committee as a whole negotiates with representatives of the foreign government concerned. Negotiations terminate in an exchange of diplomatic notes embodying and agreeing to the provisions which the committee has worked out. The South American service and the route of the China Clipper were established in this fashion, and the committee is now working with several European countries.

The chairman of the group is R. Walton Moore, and the executive secretary, Richard Southgate, chief of the Division of Protocols and Conferences of the State Department. Most of the spade work for negotia-

² July 2, 1935; *State Department Press Release*, July 20, 1935.

³ State Department Order No. 613, April 25, 1935.

tions is done under Mr. Southgate's direction; the committee has no funds of its own, and its secretariat is financed on a contributory basis by the participating departments. The committee meets at about fortnightly intervals, depending on the pressure of work. It has never prepared a formal report; the chairman commonly reports in person to the White House, just before the conclusion of negotiations.

This group has functioned satisfactorily for over a year. The only alternative to the use of a committee would be to make the State Department responsible for the work and leave to the discretion of its officials the matter of consulting with other agencies. Such consultation was necessary at so many points that it seemed preferable to make it mandatory by setting up a special instrument for the purpose. However, it must be recognized that the effectiveness of the group is largely due to the leadership of the State Department, and particularly to the work of the secretariat.

Emergency Conservation Work Advisory Council. Set up by Executive Order to advise the director of the Emergency Conservation Work, this Council nominally includes the Secretaries of War, Interior, Agriculture, and Labor;⁴ however, the secretaries have named as alternates those bureau chiefs actually engaged in administering the CCC. The active membership thus includes Mr. A. B. Cammerer, director of the National Park Service, Mr. F. A. Silcox, chief of the Forest Service, Col. George P. Tyner, General Staff, War Department, and Mr. Frank Persons, chief of the U. S. Employment Service. The Emergency Conservation Work has from the first been a coöperative enterprise; the Labor Department receives applications for jobs in the CCC, the Army enrolls, outfits, and trains those young men approved by the Labor Department, and the Departments of Interior and Agriculture furnish and supervise the projects on which the men are put to work. The function of the Council is to assist the director, Robert Fechner, in framing the policies under which the work is conducted; the Council has discussed the selection of work projects and assignment of allotted funds, preparation of the budget, finger printing of enrollees, eligibility of veterans, the problems of colored units, publicity work, and many other problems of varying importance.

The Council meets on call of the director; meetings were originally held weekly, but as the work was brought under control monthly meetings were found sufficient. Everyone directly connected with administration of the CCC attends; sometimes as many as 20 or 25 have been present. There is no secretariat, clerical help being furnished by the director's office. The director has issued one annual report, in the preparation of which the Council presumably assisted.⁵

⁴ Executive Order No. 6101, April 5, 1933.

⁵ Emergency Conservation Work, *First Annual Report* (U. S. Government Printing Office, December, 1936).

The success of this Council in facilitating coöperation among the four departments participating in the Emergency Conservation Work has been rather marked. The word "facilitating" is used advisedly, for of course it is not the Council but the director and his staff that have actually administered the program. The Council has been a source of information to the director, a forum for discussion among the bureau chiefs, a clearing house for all decisions so that each department knew precisely what was going on. It has been responsible to the director, but its members were never coerced by him; the director has been guided by its decisions, yet apparently never hampered or delayed in action. The most satisfactory explanation for this phenomenon is the happy coincidence of organizational and personal factors; the job was well planned, and the officials selected were both competent and willing to participate fully. Responsibility for the work was put squarely on the shoulders of a single man, and the Council was brought in at the level where it could be of genuine aid—not in a supervisory but in an advisory capacity.

National Advisory Committee for Aeronautics. In quite a different category is the interdepartmental committee which administers the government's research in aviation. The Committee is practically an independent institution; it was established by act of Congress, over 21 years ago, "to supervise and direct the scientific study of the problems of flight, with a view to their practical solution."⁶ The members are appointed by the President and serve without compensation; seven are private citizens and eight are government officials. The present membership includes Dr. Joseph S. Ames, Johns Hopkins University, chairman; Dr. David W. Taylor, Harry F. Guggenheim, Col. Charles A. Lindbergh, William B. MacCracken, Jr., Edward P. Warner, and Dr. Orville Wright, citizen members; from the government, Dr. Charles G. Abbott, Smithsonian Institution, Dr. Lyman J. Briggs, Bureau of Standards, Major-Gen. Benjamin D. Foulois, Chief of Army Air Corps, Lt.-Col. Henry C. Pratt, War Department, Willis R. Gregg, U. S. Weather Bureau, Rear Admiral Ernest J. King and Commander R. D. Weyerbacher, Navy Department, and Eugene Vidal, chief of Bureau of Air Commerce. The Committee meets six times a year.

The research work for which the Committee is responsible is managed by its research director, Dr. George W. Lewis, and its executive secretary, John F. Victory. The staff includes 315 paid employees at Langley Field, Virginia, 45 at Washington headquarters, and two in Paris; the Committee has a special annual appropriation, which for 1936-37 is \$1,367,000.

The procedure of the Committee in working out a research program

⁶ Act of Congress approved March 3, 1915; amended March 2, 1929; 50 USCA 151.

begins with a technical subcommittee (of which there are eight), at the suggestion of some private laboratory or the Army and Navy air corps. The Committee selects from the projects approved by its subcommittees those which are most important, and the staff then frames the details of the research and selects a laboratory to handle it. Although most of the investigations are conducted at Langley Field, many are farmed out to universities and commercial laboratories. The results of the work are preserved in the Committee's four series of publications. Most of this material is kept confidential; Director Lewis submits it first to the Army and Navy to determine whether it has military value, in which case only 25 copies are typewritten and sent to a list of key men throughout the country. Non-military material is kept in the Committee's library and circulated to the government agencies, corporations, and individuals on the regular mailing list. The Committee also issues an annual report, addressed to the President for submission to Congress.

This Committee has many scientific achievements to its credit, and is interesting here as an example of interdepartmental participation in the direction of research. If the National Resources Committee is put on a statutory basis, it will probably use much the same sort of organization. The fiscal independence of this Committee should not obscure its very intimate relationship with the Departments of War and Navy; it is primarily an instrument of science, but the influence of its findings on policy cannot be ignored and contains significant implications for the national economy. This again would be true of the National Resources Committee.

Shipping Policy Committee. Research of a different sort was the function assigned to this temporary group, set up by memorandum of the Secretary of Commerce at the suggestion of the President, June 18, 1934, "to study in coöperation with nationally known shipping authorities broad questions relating to government shipping policy, merchant marine, and shipping code." South Trimble, Jr., solicitor of the Department of Commerce, was appointed chairman, with seven additional officials of the rank of assistant secretary or bureau chief from the Departments of State, Navy, Commerce, Post Office, Labor, and Agriculture. President Roosevelt wished this study made as a basis for legislation in the 1935 session of Congress; out of a conference with several cabinet secretaries there grew the idea of an interdepartmental committee, supported by contribution of services from the respective departments, to consult with shipping interests and prepare a comprehensive set of recommendations.

The Committee portioned out its task to subcommittee groups, each of which held hearings, and then came together after the data had been collected to discuss the general problems of shipping policy. No staff was used; clerical help was provided by the executive secretary, Thomas E. Lyons, chief of the Transportation Division, Bureau of Foreign and

Domestic Commerce. A report was submitted to Secretary Roper on December 24, 1934, for transmission through the National Emergency Council to the President. Without going into the subject-matter of the report, it may be noted that the President incorporated its recommendations into his annual message to Congress on March 4, 1935.⁷ Two bills on shipping policy were considered by the Senate and House Committees on Commerce; one was the proposal of Coördinator of Transportation Joseph B. Eastman,⁸ the other the Presidential proposal based upon this report.⁹ The Copeland bill merged these proposals, and the Merchant Marine Act as finally passed embodied most of the recommendations of the Committee on Shipping Policy with regard to a merchant marine subsidy program.¹⁰

Appraisal of a committee of this sort necessarily involves an examination of the validity of its recommendations. However, inasmuch as this committee typifies the machinery used to frame much of the New Deal legislation, its organization and procedure in shaping its report are also interesting. In this case, only governmental officials were used; frequently, however, experts have been appointed from outside the departments, as in the Committee on Economic Security. The interdepartmental committee has proved a very useful device for coördinating the preliminary study on which broad legislative programs are based; this is coördination of a different order from, but no less important than, that represented by the committee which clears legislative programs prepared independently by the departments. The latter type must frequently try to reconcile conflicting programs—an almost impossible task. Consultation among departments is apparently easiest in the earliest stages of legislative drafting, and it is at this level that the interdepartmental committee has been most successful.

Interdepartment Radio Advisory Committee. In the coördination of managerial functions, this committee is a clear-cut type. Set up by letter of the Secretary of Commerce to his cabinet colleagues in 1922, its most recent authorization was in 1933 by executive order.¹¹ The origins of the committee go back to the first National Radio Conference, when it was foreseen that some agency would be needed to assign broadcasting wavelengths to the stations operated by the executive departments. This is a function of the President,¹² and to keep it quite separate from the service function and policy-determining activity of the Federal Radio Commission, a separate instrument was created. The Committee is composed of technicians, one from each of the executive departments, the Inter-

⁷ House Doc. 118, 74th Cong., 1st Sess.

⁸ H. R. 5379, and S. 1632.

⁹ H. R. 7321, and S. 2582.

¹⁰ Approved June 29, 1936.

¹¹ Executive Order No. 6472, December 2, 1933.

¹² 48 Stat. 1083, 47 USCA, sec. 305.

state Commerce Commission, the Federal Trade Commission, and the Federal Communications Commission, appointed by the ranking officer thereof for indefinite terms. Turnover in membership has been very slight, several of the original members still serving at the present time; and the chairman and executive secretary, who are elected by the Committee, have also held office for relatively long periods. The Committee has no funds, but is staffed on a contributory basis; it meets regularly at fortnightly intervals.

In performing its function, the Committee uses one technical subcommittee, to screen out the original applications for wave-length assignments. These applications, which originate in the bureau commanding the radio station and are signed by the department head, are considered by the Committee in open forum; the chairman has a deciding vote, but apparently assignments are made through amicable discussion on a basis of mutual give and take. There are no fixed policies of priority, for instance as between the Coast Guard and the Forest Service; there is some indication that an important secret fleet frequency of the Navy would be given the right of way, but this would be by general agreement. When the assignments have been made, they are embodied in an executive order, which is sent to the White House for the President's signature and which constitutes the Committee's only report. The Committee has no concern with the internal activity of the bureaus involved, and it shows no reflection of changes in administrations.

Perhaps the most significant factor in an appraisal of this committee is that its members are technicians, not policy men. The long tenure, absence of fundamental controversy, emphasis on routine, and ability to see the other man's viewpoint are all characteristics of the committee set up to coördinate managerial activity. Coöperation here is relatively easy; men who are engaged in identical work in different departments seldom have difficulty in finding common ground for discussion.

Summary. The five cases here presented include fairly typical examples of three major activities for which interdepartmental committees have been used: coördination of functional policy, research and planning, and coördination of institutional policy. Though such a compression of data as this scarcely affords a basis for generalization, a word of comment is necessary to indicate the place of interdepartmental committees in the coördinating process. The use of committees will not cease with 1941; rather, the unmistakable trend toward broad social programs will bring a wider use of them (a) because it will increase the need for the framing of policy by more than one executive department, (b) because it will increase the number of administrative agencies. It is therefore imperative to define the uses to which a committee may properly be put.

The general criterion by which the success of existing committees must be judged is their ability to agree upon a policy which will thereafter be adopted as the policy of each of the participating departments. It is also possible to frame subsidiary criteria for estimating how well the committee has performed its assigned function. The committees here described have all been reasonably successful, but in this they represent a woefully small minority. Taking a broad view of the 300-odd interdepartmental groups in existence between 1932 and 1936, four facts must be admitted: (1) many committees were created for functions which no committee could fulfill; (2) many were handicapped from the start by unwieldy size, thoughtless appointment of personnel, or lack of adequate or definitive authority; (3) duplication of effort among committees was almost as widespread as among executive agencies; and (4) the process of appointment and organization was utterly haphazard, resulting in great loss of energy and time. At most, a third of the committees appointed performed some valuable service.

But the successful committees are understandable only in comparison with the failures; again viewing the situation as a whole, there are apparent certain characteristics of the effective and the ineffective type which may assist in answering the fundamental query: Under what circumstances is an interdepartmental committee really useful? In the first place, the committee may be used only where *discussion* is essential and appropriate; where haste, or secrecy, or decisive action are the primary desiderata, some other mechanism may as well be found at the outset, for it will have to be found in the end. Second, the problem must be one requiring *over-all consideration*; it is sheer waste of time to formalize an interdepartmental group where the matter can be handled by a single department through individual consultation. Finally, the *organization* of the committee must be carefully planned in the light of its function and the two points just mentioned. The number of members should be kept small enough to be manageable, yet large enough to be inclusive; members should be appointed with an eye both to competence and personality, rather than merely naming the first person who comes to the Secretary's mind as being generally capable. If a secretariat is used at all, it should be more than a mere recording agent; its contribution should include (a) continuity, by drawing together the threads of the work from the subcommittees and from one meeting to the next, and (b) vitality, by digesting the discussions of the committee and subcommittees to furnish the right word at the right moment and fresh ideas when possible.¹³

¹³ The Central Statistical Board, which alone would furnish material for a monograph on coordination, is the outstanding example of effective staffing.

A thorough study of coördination must view the problem of inter-departmental concert from two angles: the achievement of parallel action, which is the concern of the present note; and the effects of conflicting action, which is a far broader field. To trace the coördinating process from the specific circumstances which bring into being an interdepartmental committee (or other mechanism) all the way through to the implications which conflicting policies hold for the entire national economy, is perhaps the highest objective of such a study. It is an objective that can be attained only by a series of systematic studies analyzing the mechanisms of administrative coördination in action.

MARY C. TRACKETT.

Columbia University.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

A committee on program for the Philadelphia meeting of the American Political Science Association next December has been appointed as follows: Professors Francis W. Coker, Yale University, chairman; William Anderson, University of Minnesota; Cullen B. Gosnell, Emory University; Lindsay Rogers, Columbia University; and James T. Young, University of Pennsylvania. One or two other persons may be added. Professor John M. Gaus, University of Wisconsin, has been made one of the Association's three representatives in the Social Science Research Council, and Professor Joseph P. Chamberlain, Columbia University, has been reappointed as one of its two delegates to the American Council of Learned Societies. The Committee on Policy for the year had not been made up fully at the date of writing, but will include Professors Arthur N. Holcombe, Harvard University, chairman; A. B. Butts, University of Mississippi; Kenneth Colegrove, Northwestern University; and Thomas Reed Powell, Harvard Law School.

The 1937 edition of the Political Science Personnel Service was ready for distribution to administrative officers and heads of departments in high schools, colleges, and universities and to government officials early in April. This Service includes the records of graduate students and young doctors of philosophy who are prepared to take teaching positions or research and governmental posts. The Service is distributed free of charge on application to the Secretary-Treasurer, 305 Harris Hall, Northwestern University, Evanston, Illinois.

Professor John A. Fairlie returned from a European trip in December and resumed teaching at the University of Illinois at the beginning of the second semester.

Professor Raymond Moley, who in addition to teaching at Columbia University edits *News Week*, will be on sabbatical leave from the University in 1937-38.

Professor Austin F. Macdonald, of the University of California, went abroad in January and will remain until the opening of the fall term.

After teaching at Stanford University during the autumn and winter quarters, Professor Clyde Eagleton, of New York University, went to the Far East for several months of travel and observation.

Following a two-years' leave of absence from the University of Arkansas, Professor Kenneth O. Warner has resigned to continue as field consultant with the American Municipal Association.

Professor E. Allen Helms, of Ohio State University, participated in the public forum program sponsored by the Office of Education in Morgantown, West Virginia, during the month of February.

Dr. Hyman E. Cohen has returned from his year abroad as a fellow of the Social Science Research Council, studying emerging political tendencies and thinking in Europe. He is now research associate and instructor in the department of political science at the University of Chicago.

Dr. Clarence A. Dykstra, city manager of Cincinnati since 1930, and formerly professor of political science at the University of Kansas (1909-18), and the University of California at Los Angeles (1923-29) has been chosen president of the University of Wisconsin and will enter upon his new duties in May.

Professor Emery E. Olson, dean of the school of government at the University of Southern California, and lately on leave in connection with the in-service training project for federal employees in Washington, D. C., sponsored by the American University, will return to his post at Los Angeles at the beginning of the next academic year. Meanwhile, during the coming summer, he will serve as director of the second annual Institute of Government at the University of Washington, Seattle.

Mr. Robert Smith, formerly personnel technician of the Farm Credit Administration, has been appointed director of personnel in the U. S. Department of Labor, which now becomes the second "old line" federal department (Agriculture being the first) to establish a personnel office.

Professor Jesse S. Reeves has resigned the chairmanship of the department of political science at the University of Michigan, held by him since the department was first organized in 1910. His successor is Professor Ralston Hayden, who a year or more ago returned to the University from the vice-governorship of the Philippines.

Dr. Fannie Fern Andrews has returned to the United States after a four-months' study of the "danger zone" of Europe, during which she visited Paris, Munich, Prague, Warsaw, Danzig, Berlin, Cracow, Vienna, Budapest, Trieste, Rome, Milan, and Geneva. Her plan of investigation included chiefly interviews with foreign offices. More recently, Dr. Andrews has been delivering sundry lectures on European diplomacy.

Training of students for service in state and local government, particularly in Pennsylvania, has been made one of the functions of an Institute of Local Government organized recently at Pennsylvania State College. Dr. H. F. Alderfer is serving as special adviser to students taking the course.

With the assistance of W.P.A. funds, the Bureau of Governmental Research at the University of Washington, Seattle, is undertaking a survey of local government in the state of Washington. Local government functions, both administrative and financial, will be examined. From seven months to a year will be required to collect and interpret the necessary information. Dr. Edmund F. Spellacy, associate professor of political science, is acting as research director.

The United States agency for documents published by the League of Nations, the International Institute of Intellectual Cooperation, and the Permanent Court of International Justice has been transferred from the World Peace Foundation to the Columbia University Press, which now maintains a special division known as the International Documents Service.

The U. S. Northwest Territory Celebration Commission is offering a cash prize of one thousand dollars for "the best standard work, in manuscript form, covering the history of the Ordinance of 1787 and its effects upon the development of government," and submitted to the Commission at its office in Marietta, Ohio, on or before June 1, 1938.

Anerasia; A Review of America and the Far East is a valuable new monthly magazine published at 125 East 52nd St., New York City, under the managing editorship of Philip J. Jaffe and the sponsorship of an editorial board which includes Frederick V. Field, T. A. Bisson, Cyrus H. Peake, Owen Lattimore, Kenneth Colegrove, and William T. Stone. The first issue appeared in March.

Pi Sigma Alpha, national honorary fraternity in political science, held its biennial meeting in connection with the American Political Science Association meeting at Chicago in December. Thirty delegates representing sixteen of the twenty-seven chapters were present. The following officers were chosen: president, Harvey Walker, Ohio State University; vice-president, Charles W. Shull, Wayne University; secretary-treasurer, J. W. Manning, University of Kentucky.

A new guide to the Federal Archives of the United States is being compiled by members of the staff of the National Archives on the basis of information assembled by the deputy examiners in their preliminary surveys of the material in Washington and by the W.P.A. Survey of Federal Archives in its inventories of records outside the District of Columbia. The guide will be published in parts as completed, and each will describe the records, both in and out of Washington, of one of the major agencies of the government or of a group of minor agencies.

The tenth annual session of the Emory University Institute of Citizenship was held at the University on February 8-12, under the direction of Professor Cullen B. Gosnell. The lecture staff consisted of Dr. Raymond L. Buell, Foreign Policy Association; Dr. Thomas H. Reed, National Municipal League; Professor Edward S. Corwin, Princeton University; Mr. Edwin R. Embree, Julius Rosenwald Fund; Mr. Francis B. Sayre, Department of State; and Mr. Murray Seasongood, ex-mayor of Cincinnati, Ohio. Round table leaders included Professors Frank W. Prescott, University of Chattanooga, and George Spicer, University of Virginia.

With "The World Challenge to Democracy—How Can America Meet It?" as the general theme for its lectures, forums, and round tables, the Summer Institute for Social Progress will hold its fifth annual conference for men and women on July 19-24 on the campus of Wellesley College. Dr. Colston E. Warne, professor of economics at Amherst College, will be head of the Institute faculty this year, and will be assisted by other experts, chosen not only for their knowledge of their respective fields but for their ability to stimulate pertinent discussion. The conference offers an opportunity for political scientists to come together with men and women active in the industrial, business, and professional worlds, all of whom bring their personal practical experience to bear on current economic and social problems. Details may be had from G. L. Osgood, 14 West Elm Avenue, Wollaston, Mass.

The first number of *Population Index*, a guide to current demographic materials for students, research workers, and teachers, appeared in January. The *Index* is published quarterly by the School of Public Affairs, Princeton University, and the Population Association of America. It continues the Association's bibliography, *Population Literature*. The current number contains two new sections, Current Items and Statistics, in addition to a bibliography covering more than 400 recent books and articles. Current Items is devoted to notes on matters of special interest to students of population, such as announcements or reports of meetings and comments on new developments. The Statistics section presents population and vital statistics for a large number of countries as well as special data for the United States. The *Index* goes to all members of the Population Association. Others wishing to receive it may write to the Office of Population Research, 20 Nassau Street, Princeton, New Jersey.

Sir Frederick Pollock, preëminent among the legal scholars of the English-speaking world in his generation, died at his home in London on January 18 at the age of ninety-one. From his death-bed, he advised

Sir John Simon on the form which King Edward's abdication should take. Editor of the *Law Quarterly Review* from its establishment until 1918 and of the *Law Reports* for forty years, author of many text-books and treatises widely used in law schools, and lecturer on legal subjects in many lands including India and America, he was perhaps best known to political scientists by the *History of English Law* which he wrote in collaboration with Professor Maitland, his *Essays in Jurisprudence and Ethics*, and, not least, his *Introduction to the History of the Science of Politics*, telling in a hundred brilliant pages of the ways in which men have conceived the state since Aristotle, and unequalled in any language as an introduction to the subject.

Dr. James Quayle Dealey, professor of social and political science at Brown University from 1895 until he reached the retiring age in 1928, died at his home in Dallas, Texas, on January 22 at the age of seventy-five. Born in Manchester, England, Dr. Dealey engaged in newspaper work in Galveston, Texas, before going to Brown as a student, and after receiving his bachelor's degree in 1890 taught languages in Texas and Vermont before taking the post at Providence with which the political science profession associates him. After his retirement, he returned to Texas, where, at the time of his death, he was editor-in-chief of the *Dallas Morning News* and allied publications. From 1916 to 1928, he served as lecturer at the Naval War College at Newport, Rhode Island; in 1932-33, he was president of the Southwestern Social Science Association; and his publications included *Our State Constitution*, *The Development of the State*, *Ethical and Religious Significance of the State*, *The Growth of State Constitutions*, *Foreign Policies of the United States*, besides works in the field of sociology, to which he was drawn through his association with Lester F. Ward.

A Graduate School of Public Administration at Harvard University: Committee Recommendations. In November, 1935, Harvard University announced a gift of two million dollars from Mr. Lucius N. Littauer for the establishment and maintenance of a Graduate School of Public Administration. In pursuance of this benefaction, President Conant appointed a special commission to prepare recommendations concerning the organization of the new school, the scope of its work, and its proper articulation with the existing schools and departments of the University. In view of the significance attaching to the resulting recommendations, considerable portions of the document are presented herewith:¹

¹ The members of the commission were: Harold W. Dodds, Princeton University, chairman; Leonard D. White, U. S. Civil Service Commission; William B. Munro, California Institute of Technology; and Wallace B. Donham, Harold H. Burbank, and Morris B. Lambie, Harvard University. The initial staff of the school, organized

I. The Commission believes that there are sufficient opportunities in the public service to warrant the training of men by Harvard University for careers in it. Provisions should therefore be made for a new curriculum or for such adaptation of existing curricula as will provide this training in an effective way.

II. Such new curriculum or adaptation of existing ones can best be provided under the sponsorship of a separately organized Graduate School of Public Administration.

III. The objectives of this new school should be not only to provide an adequate program of training for public service but to promote research in public administration as well. Special emphasis should be laid upon this latter purpose, because there is need for scholarly and objective investigation into the problems of public administration and because it is now recognized that research is a vitalizing factor in all forms of training at the graduate level. It is research that helps to create the atmosphere of intellectual earnestness which the new school must have if the training given by it is to be commensurate in standards with that of the other graduate schools and departments at Harvard.

IV. The new school should be organized with a dean, a separate faculty, its own curriculum and degree, as well as its own separate budget. Most of the faculty members of the new school may well be, at the outset at least, members of the existing faculties of the University. These instructors will thus be in a dual relation—to the new school on the one hand and to their own departments or professional schools on the other. At the beginning, the instructional staff of the Graduate School of Public Administration need not include more than three or four instructors whose association is primarily with the new institution Together with these three or four persons, the faculty of the school should also include men selected from other faculties of the University, making a group of not more than twelve or fifteen at the outset. This limitation is desirable in order that the faculty shall be small enough to permit frequent, frank, and informal discussions of the many problems of educational policy which will confront the school in its formative years

V. It is extremely desirable that the new school be inaugurated with a small enrollment in order that it may (a) secure for itself a highly selected group of students, (b) facilitate the placement of its graduates, and (c) afford opportunity for gathering new instructional data, as well as for developing such methods of instruction and research as may be found

since the report was submitted, consists entirely of persons who at the time of their appointment were already members of the Harvard faculty and includes, among others, Arthur N. Holcombe, Carl J. Friedrich, and Morris B. Lambie, with E. Pendleton Herring as secretary.

most appropriate to this new educational enterprise. Accordingly, the Commission expresses the earnest hope that at the outset the enrollment will not include more than ten to fifteen in category *1a* (as described in the following sections), ten to twenty in category *1b* (depending upon whether additional funds can be obtained for assisting students in this group), and in category *2* not more than are in categories *1a* and *1b* combined.

The three classes of students who may be expected to take courses in the new school are as follows:

1a. A limited number of carefully selected recent college graduates who may or may not have had some professional or graduate training. In all instances, a genuine desire to enter the public service should be indicated by these students as a prerequisite for admission to the school. It may also be desirable to have some assurance of a secondary interest, for example, in teaching, business, research, public relations, or writing as alternatives to a place in the government service. These students should be encouraged to arrange programs of general educational value so that on completion of their work they will not have unprofitably utilized their time in case they do not enter the public service.

1b. A small group of men already in the public service who are college graduates and who would gladly seek leave of absence for the purpose of spending at least a year in the new school The Commission regards provision for this class of in-service students as of the highest importance not only to the improvement of the public service but to the creation of a professional spirit in the school during its early years. Such mature students, on leave of absence from their posts in the national, state, or municipal service, would provide the school with a nucleus which would facilitate the setting of high standards from the very outset. The purpose of their coming to the new school would not be to improve their proficiency in the special fields of work which they have been following, but rather to broaden the area of their competence and thus to qualify them for promotion to positions of wider administrative responsibility. The Commission believes that the offering of liberal opportunities to such a group of promising young public officials constitutes perhaps the greatest service which the new school can render. It regards this project as of such importance that if the available income is not sufficient to provide fellowships in adequate number and amount, it recommends that additional funds for this purpose be sought at once.

Both the foregoing categories (*1a* and *1b*) include students whose affiliation would be primarily, if not wholly, in the new school. But in addition there should be admitted a second group of students, namely:

2. Men who are pursuing or have finished their graduate or professional work and who desire to obtain additional training in the field of

public administration. Such students will in most cases continue to be enrolled in one of the existing graduate schools or departments of Harvard University, but will take in the new school such courses as might be approved by the dean or chairman of the school or department in which their regular graduate or professional work is being carried on. The Graduate School of Public Administration would serve these students by suggesting courses which would be advantageous to them, either chosen from its own curriculum or from the instruction which is already provided elsewhere in the University. Those who have not finished their regular graduate or professional training would continue to be registered as before, and would come to the new school for individual courses only.

If the foregoing recommendations are followed, the new school will begin with a relatively small enrollment, not exceeding forty to seventy students in all. It ought to remain relatively small for a time, at least until the successful placement of its graduates is fully assured. Nothing could be more unfortunate than that the school should turn out graduates for whom positions in the public service are not available. The expansion of the school should proceed slowly and cautiously, in order that the pitfalls which beset a new educational experiment may be avoided.

VI. The exact scope and character of the curriculum should, of course, be determined by the dean and faculty of the new school. It is strongly urged, however, that the curriculum should not attempt to provide highly specialized preparation for individual branches of the public service. It should not attempt to train its students in such way that they will deem themselves qualified to enter the public service as expert technicians in any branch of it. It should carefully avoid becoming a place of vocational training in the narrow sense. Rather it should seek to provide a thorough grounding in the fundamental principles and problems of public administration without reference to the branch of the public service which its graduates may enter, although career men on leave (group *1b*) may properly orient their work more definitely than recent graduates. This training, while it will necessarily familiarize the student with many administrative problems of a specialized character, should be primarily designed to give him a grasp of public administration in its broader phases as a branch of the science of government. The methods of instruction should be adapted to the attainment of this purpose

VII. If the school is to perform a distinctive function, it must provide itself with a body of instructional data which is not now available anywhere. To this end, it is strongly recommended that before the work of instructing regular full-time students (such as those envisaged in class *1a*) is begun there should be a period of a year or more during which the new school would devote practically its entire energies to the task of becoming familiar with the problems confronting it and developing an effective

instructional technique. Its initial staff would be greatly helped in this direction by bringing into the school, during this preliminary period, a small group of men who already hold high positions in the federal, state, or municipal service. It is suggested that in each half year the federal and state authorities might well be asked to release a small number (say eight or ten) bureau chiefs or other "career officials" of correspondingly high grade. These officials would devote perhaps half their time to participation in round-table conferences with the initial faculty of the school on such matters as are to constitute the projected courses on Public Policy, Public Administration, etc. Their remaining time would be spent in pursuing such work as they might choose to take in the Graduate School of Arts and Sciences, the Graduate School of Business Administration, the Law School, or in some other graduate or professional school at the University.

Various advantages would be derived from this arrangement. The faculty of the school would be assisted in the preparation and testing of instructional data. With the assistance of these officials, drawn from the high ranks of the public service, a realistic program of research could be formulated. Contacts between the faculty of the school and the public service would be facilitated.

If the foregoing suggestion is followed, it is recommended that the small group of public officials be brought to the school as soon as possible, and in any case not later than September, 1937. Students in class 1a should not be admitted until September, 1938; but students in class 1b and class 2 might well be permitted to enter the school in small numbers during the school's initial year

VIII. . . . It may be appropriate to point out the importance of building up among the students an *esprit de corps* or morale, so that they may look upon their impending careers as an opportunity for service to the public rather than as a mere means of earning a livelihood. They should be impressed with the dignity of the public service as a profession, and should be encouraged to maintain after graduation close and familiar contacts with the graduate school and the members of its faculty. It is consequently important that the members of the faculty themselves recognize the dignity and significance of the public service in our contemporary social structure.

IX. The Commission regards it as essential that the new school should give its own master's degree to those students who have satisfactorily completed the requirements of a two years' course. For a number of years at least, or until the school has become well established, it ought not to recommend candidates for a doctor's degree. The Commission suggests for consideration by the faculty of the new school the advisability of providing certificates in public administration to those students who have

completed a substantial amount of work in the school but have not been candidates for its degree.

X. Because of the experimental character of the new school, it is important that the coming year be energetically devoted to the selection of the dean and faculty, the preparation of instructional data, preferably with the aid of the officials mentioned in Section VIII, the development of the nucleus of a library, the working out of arrangements for the selection and admission of students, the erection of a building to be known as the Littauer Center, and the establishment of coöperative relations with other schools and departments of the University as well as with governmental agencies. *It is far more important that the work of training students be started right than that it be started early*

BOOK REVIEWS AND NOTICES

Intelligence in Politics. BY MAX ASCOLI. (New York: W. W. Norton and Company. 1936. Pp. ix, 280.)

This essay of interpretation, and of not always suppressed but never strident appeal, should be studied by American political scientists. Professor Ascoli has already won a place here through his writing and his teaching; and now he brings us the first fruits not only of his observations of America, but of his equally valuable informed awareness of other systems, institutions, and cultures in which he has been reared. We have had valuable essays on America in the past by writers who also have been able to place some knowledge of our society in relation to that native to them. What distinguishes this book is the eagerness of its author to participate in the work of the American student of social institutions, an eagerness that in certain passages—notably those on pages 205, 279, and 280—rises to a moving and genuinely inspired quality all too rare in our professional writing.

For this is, indeed, professional writing. It is addressed to the "intellectuals," and particularly those who are social scientists, and it aims to clarify their function. Even more particularly, it seeks to explain their peculiar function in America as the society in which democracy offers to those who will make the effort the richest opportunities for observation and participation. The opening chapter defines the function of the intellectual in general (as a "technician in expression"), the problems peculiar to him in democracy and capitalism, and the resulting bewilderment which characterizes him. There follows a penetrating discussion of democracy in America, with an appraisal of the rôle of the parties, the common law, and the courts. The emphasis laid on politics as ultimately more important than economics should be noted. "Politics, no matter how poorly managed and how corrupt, is without comparison more far-seeing than economics." The analysis is continued in the third chapter, where the "dilution" of politics is described in the "marriage between democracy and business" and the absorption of varied peoples and dissents. The problem of assimilating, understanding, and stating the resulting and present American society and its institutions—the prime task of the intellectual—is discussed in the fourth and concluding chapters.

At first reading, the exuberance of aphoristic sentences—there are many aphorisms that invite quotation—sometimes distracts attention from the penetration with which the author has not only interpreted our institutions but brought his understanding of another society to their appraisal as a native could not. But the aphorisms are not callow; they invite reflection. The concrete illustrations are very few; the reader is given little mercy in the way of extended concrete descriptive data to

clinch the argument, except—and most effectively—in a few references such as that to the Civil War, or to the fact that “one does not fight the reactionary justices with the arguments of Brooks Adams, but with the opinions of Holmes.”

“Intelligence has refused to comprehend democratic politics and to accomplish in itself the changes necessary for the grasping of it”—this is the challenge of the book that gives it a place in the reading of the political scientist. “A democratic political régime can be more seriously endangered by malicious or fatalistic interpretations than by riots”—yet “intelligence here has been prevented from falling into arrogance, and politics has not yet passed beyond the grasp of human control.” There is, in this conception of the task of the intellectual, and despite the state of the world, no whining and no defeatism.

There is an apparent contradiction, it may be argued, in Professor Ascoli's insistence on reason as against fatalism or other escape as the instrument of the intellectual and his equal insistence that the tendency of politics in a democracy “is to run secretly and wild, to eliminate consciousness of purposes and rules of the game.” Yet the contradiction can be resolved, as a growing number of studies, such as Merriam's *Chicago*, for example, illustrate. Professor Ascoli's warning that the intellectuals “must look in themselves, among themselves, within their own ranks, in their own domain” has reference to a rejection of the “auspices of racial trends or economic laws.” These may be a portion of the data of politics; but they need to be informed by the inventive and creative interpretation of the political scientist. How costly our national depreciation of politics and the politician is, it is our function to make clear. The attack upon what is asserted to be irrational is itself a flight from a difficult task of reason. While portions of Professor Ascoli's analysis of this problem are not easily grasped—notably in Chapter IV—we must remember not only that the problem is complex and difficult, but that we have neglected it too long.

JOHN M. GAUS.

University of Wisconsin.

The Rise of Liberalism. BY HAROLD J. LASKI. (New York and London: Harper and Brothers. 1936. Pp. 327.)

In this volume, Mr. Laski aims to trace the growth of liberal ideas and the forces by which they were shaped into a coherent doctrine, and to explain the paradox by which business men changed from a liberal to a conservative point of view in their political outlook. It is the story of the rise of a capitalist society, of the attitude of the growing middle class who controlled that society and who, in the earlier period, created liberal and even revolutionary ideas for the purpose of overthrowing the old

order, controlled by the landed nobility and the church. For a time, during the period of Mercantilism, they supported the authority of the monarchs of the new national states, with their interest in trade, colonies, and new enterprises. Later, as their political influence increased, they placed constitutional restrictions upon state power, demanded a sphere of individual freedom and a moderate degree of democracy. With the further extension of political power to the masses and the rise of socialist doctrines, they became an entrenched minority group, possessing economic power and determined to keep it, using liberal phrases to support their desire to run their business in their own way without regulation or control. What was at first a critical and destructive attitude thus became in the course of four centuries a distinctly conservative point of view.

From this outline, it will be seen that the author identifies liberal principles with the desire for freedom on the part of men who had property to defend. As he states it, "The idea of liberty is historically connected with the ownership of property. The ends it serves are always the ends of men in this position" (p. 9). He admits that liberal doctrines took various forms, changed from century to century, and were composed of divergent elements. He recognizes their skeptical attitude to dogmatic religion, their hostility to tradition and to standardized social control, their interest in science and invention, and in the importance of the individual. He sees the change between the liberal's support of state promotion of business in the sixteenth century and his demand for *laissez-faire* in the nineteenth century, and between his support of moderate democratic ideas in the period of the English and French Revolutions and his opposition to wider democracy today. The author finds the explanation in the statement that while liberal ideas have expressed themselves in general and universal terms, they have always been used in practice for the benefit of a limited property-owning class.

At the present time, the author sees a clash between political democracy and economic oligarchy, and a realization by the propertied classes that if they continue their liberal experiments and reforms they will destroy their own power. Hence the decline of liberal theories, the growth of fascist doctrines to support capitalism, and of communist theories in the interest of economic equality. Liberalism grew out of the efforts of the middle class to find its place in the sun. Having accomplished this, it was unwilling to make room also for the laboring class, and the doctrines which were once used to free the middle class are now used to discipline the workers.

This thesis is developed by the author in his usual brilliant and suggestive manner. He touches on theology, literature, science, history, political and economic theory—the names of about two hundred writers are mentioned. Sometimes this parade of erudition seems a little unnecessary. In

the notes at the end of the volume are modest references to eleven other works by H. J. Laski. In the opinion of the reviewer, too much emphasis is placed upon the economic interpretation of history throughout the volume; and the assumption that liberal ideas were always used to defend the rights of property seems unwarranted. Certainly much of the development of liberal principles, especially in France, was the work of men who had little property to defend, and liberal ideas have been used for other and sometimes for opposite purposes—to attack as well as to defend the right of property. While admitting the value of Mr. Laski's broad generalizations and the suggestiveness of his point of view, there is left the impression that he started with a well-defined preconception and that he omitted many things that do not fit in with the main line of his argument.

RAYMOND G. GETTELL.

University of California.

The Social Contract; A Critical Study of Its Development. BY J. S. GOUGH. (Oxford: The Clarendon Press. 1936. Pp. vi, 234.)

This is a keen and painstaking investigation into the origin, biblical and classical, of the contractual ideas which found their first great synthesis in the Middle Ages, and through the Renaissance and the bourgeois revolutions shook the foundations of the divine right of kings until, in the nineteenth century, they lost their hold on public opinion because of the growing spirit of historicism, empiricism, and relativism. Though the approach of the author is in its essence historical, his achievement is far more than this. In the first place, he often gives very penetrating critical analyses of the doctrines from the point of view of their logical correctness (a detailed discussion of Professor C. J. Friedrich's interpretation of Althusius will interest the American reader particularly). In the second place, he is perfectly aware of the fact that the continuous recurrence of the contractual theories and their tremendous influence on modern democracy, federalism, and international law cannot be a purely transitory historical attitude, but must have a deeper foundation in the essence of the human soul and institutions. Against a shallow positivism, he pertinently asserts that "in politics as much as in any other branch of philosophy, there is an absolute and not merely a relative distinction between truth and falsehood, good and evil, and that that is a question which history alone is powerless to answer."

The reviewer can only express his unqualified praise for the clarity, precision, and conscientiousness with which the author has done justice to the great array of controversial ideas which he treats in his long historical travel. His book will surely become an indispensable guide for all those who approach some aspect of the contractual theory. In all his

analysis, Mr. Gough makes a sharp distinction between the social contract proper and the contract of submission which an important part of the theory has emphasized. As to his other claim, "not to lose sight of the importance of judging a political theory in the light of its circumstances," our appreciation is less emphatic. It would seem to the reviewer that the author has embraced too many minor prophets of the contractual theory, with the result that the reader sometimes loses among the bewildering amount of details the essential and fundamental developments. One does not feel that emotional pulsation of the theories which alone makes them an instrument of the creative historical process and without which it only remains the object of esoteric debates and classroom exercises.

As to his final conclusions—the results of his laborious inquiries—though suggestive and illuminating in many respects, the author's point of view seems to be somewhat incomplete and vacillating. For instance, the historical validity of the contractual theory cannot be repudiated by the simple fact that we have no evidence of the contractual origin of the state. The only real test here would be the judgment of the anthropologists, which is, however, lamentably contradictory. But if we assume, for example, with the school of Sir G. Elliot Smith, corroborated by a great array of facts, that the original condition of mankind was not the somewhat mythical horde but rather the anarchy of extremely individualistic families, the social contract idea would receive an almost historical support—of course not that of a formal state contract, but in the sense that every enlargement of the social bond which was not based on conquest must have furnished new opportunities for mutual aid and coöperation. Every common defense, every coöperative hunting expedition, or fight against animals or nature, can duly be regarded as a more or less conscious contract for mutual benefit, accepting reciprocal rights and duties. Did the contractual theory, in its essence, ever mean more than this? What other contract could millions of citizens, the greatest part of whom have never known one another, have entered than this? As a matter of fact, the contractual theory was always a protest of the spirit of free coöperation and equal human dignity against the spirit of conquest and hereditary superiority; at the same time, a continuous approach towards the ideal, magnificently stated by Rudolf Stammmler: "Eine Gemeinschaft freiwollender Menschen."

Of course, this remark should not be interpreted as a reproach to the author. No one can give a final well-balanced judgment of the contractual theory without taking into consideration that proud edifice of which the contractual theory forms only one bulwark, i.e., the theory of the Law of Nature. The author fully realizes this, and it is highly desirable that he should embark in the future upon the most important task: to show the

living and permanent force of a theory destroyed by power-worshipping jurists and the admirers of a "Rechtswissenschaft ohne Recht" of the totalitarian state.

OSCAR JÁSZI.

Oberlin College.

Otto von Gierkes Staatslehre und unsere Zeit. By REINHARD HÖHN. (Hamburg: Hanseatische Verlagsanstalt. 1936. Pp. 161.)

The innocent scholar might assume that there is much in Gierke that might be useful to those attempting to translate into theory the vague but vigorously asserted convictions of the National Socialist movement. For Gierke was both an outstanding opponent of nineteenth century individualists and formalists and also the great Germanist among the jurists of his day; and Dr. Höhn does mention present German writers who, recognizing this, are attempting to build a theory for the totalitarian state on the foundation of Gierke's doctrines.

But this "back to Gierke" movement Höhn considers a waste of time, if not an attempt to undermine National Socialist thought. Gierke was too much of an individualist for Höhn. For Gierke, the development from primitive *Genossenschaft* to modern *Körperschaft*—that is, the development of a conception of corporation as resting on a voluntary basis, comprehending selected spheres of individual interest and activity, and possessing a real, if invisible, personality distinct from that of its members—was a significant achievement of centuries of German social progress and persistent efforts to conserve and develop Germanic concepts in law and politics. But Höhn regards all this development as intolerable retrogression. He would go back, not to Gierke, but to the primitive German *Genossenschaft* with its concrete, visible *Gemeinschaft*-unity, which exists in and comprehends the complete personalities of its members (pp. 21, 27, 41-42). He insists repeatedly that the unity of the state is in the visible *Volksgemeinschaft*; there is no need to abstract an invisible juristic personality for the state (p. 70). This approach enables him to eliminate as irrelevant to National Socialist thought problems which Gierke found basic, such as the rôle of the constitution in the *Rechtsstaat* (pp. 48-51), the relations of individuals to the state (pp. 53-58), the theoretical position of the organs of an association (pp. 66-70), the distinction between public and private law (p. 83), and so forth. Such questions, says Höhn, arise from Gierke's individualist assumption that different phases of individual personality are separable, and from his consequent substitution of the *Körperschaft* for the simple old-German *Genossenschaft* as the core of his system. The pluralism implicit in Gierke's thought makes it utterly foreign to the totalitarian ideal (pp. 108-109, 149). Finally, Gierke has no room in his legal system for "race, blood, and soil" as the necessary

basis of the state (p. 152). Nor is there room in Gierke's system for a *Führer*, except as an organ of the *Körperschaft* (pp. 76, 152). Gierke's system thus becomes the last great barricade which opposes the triumphant march of National Socialist theory (p. 8).

Höhn's exposition of Gierke is objective and well illustrated by direct quotation, but the necessity of maintaining his thesis leads him to a one-sided interpretation which neglects the importance in Gierke's system of organic and authoritarian elements. The book emphasizes the gulf between liberal conceptions of law and state and the assumptions of German totalitarianism; and to many it will be interesting as an unintended vindication of Gierke.

JOHN D. LEWIS.

Oberlin College.

The Papacy and World Affairs, as Reflected in the Secularization of Politics. BY CARL CONRAD ECKHARDT. (Chicago: The University of Chicago Press. 1937. Pp. xiv, 310.)

The appearance of this book is timely in view of the uncertain status of the Catholic Church as an international institution in relation to the totalitarian fascist states and the rallying of the forces of Catholicism by the Vatican in opposition to communism.

The author narrates the successive steps in the secularization of politics from the Avignonese period to the Lateran Accord of 1929, and in the concomitant decline of the Pope's influence in temporal affairs. As the title indicates, the book deals primarily with the international position of the papacy, and therefore the largest amount of space is allotted to the Peace of Westphalia, which, owing to the unprecedented inclusion of the clause against papal protests in the treaties, marks the beginning of a concerted and effective opposition on the part of Catholics as well as Protestants to papal pretensions to hegemony in the affairs of Europe.

This part of the book is well done and deserves commendation. It presents material taken largely from original sources. It is more than a mere compilation of factual data and a presentation of the political arguments of official apologists. An attempt has been made to interpret this phase of history in terms of underlying purposes and motives by pointing out the dynastic and personal interests and the considerations of expediency that impelled Catholics to side with Protestants in opposition to the presumed interests of the papacy. If any criticism of this section is to be made, it is that the references to the broader historical background are too scanty. This deficiency is even more pronounced in the introductory part of the book, to say nothing of a few errors of historical fact that can be found in the first two chapters.

One is tempted also to criticize the allocation of space to the several

events that mark the successive stages in the decline of papal influence. The material on the Peace of Westphalia covers about one hundred and fifty pages, whereas the Lateran Accord, which terminated the intransigent attitude of the popes and the period of futile protests, is given less than three pages.

In the section dealing with the secularization of political theory, one is surprised to find Hobbes referred to as a "disciple" of Machiavelli. Bodin is disposed of in a footnote, because "his doctrines are confused, incoherent, and inconsistent, and since he avoided any awkward considerations of papal influence in politics . . ." (p. 207).

In evaluating the gains and losses of the papacy owing to its withdrawal from power politics, the author differentiates between interference in "politics" and "social leadership." This distinction seems artificial in this day when international politics threatens to assume the character of a "war of ideologies," and when German Catholics, in spite of alleged violations of the concordat of 1933 by the political authorities, agree to support neo-pagan Nazis in their crusade against communism.

A profusion of references denotes a great deal of hard work. Omission of some of them, however, would have shown the author's sense of discrimination in a better light. Despite the shortcomings mentioned, the book is a genuine contribution to the literature of the subject. It is unique in so far as it surveys this important phase of the history of the papacy over a period of fifteen centuries.

HENRY JANZEN.

Hamilton College.

L'Individu et l'État dans l'Évolution constitutionnelle de la Suisse. By WILLIAM E. RAPPARD. (Zurich: Éditions Polygraphiques S.A. 1936. Pp. ix, 556.)

The author of this book is not only the rector of the University of Geneva and co-director of l'Institut Universitaire de Hautes Études Internationales; he is highly respected in Swiss political circles and known in the international field as a member of the Permanent Mandates Commission of the League of Nations. He makes a characteristically winning gesture when he declares in the preface of the present tome that "this, like every study of the social sciences, is only a slice of the historical reality seen through the prism of the author's *esprit*." We are told "without false modesty" that the work has resulted from two very different invitations to the author, one that he write a manual on Swiss politics for the use of American university students, the other that he lead a series of conferences at Lucerne in the summer of 1935 on the subject of the individual and the state. He prepared himself for both undertakings by studying the relations between the individual and the state in the constitutional evolution of Switzerland.

The subsidiary rather than the leading title is the better indication of the book's actual content. The work is essentially a constitutional history of Switzerland, very readable and amply documented. Primary sources have been used almost to the exclusion of earlier histories and monographs, and in the text are numerous long and short extracts from legal documents, committee reports, and political speeches.

There is presented throughout—although not, in the reviewer's opinion, with close dependence upon the array of factual material, and with only brief analytical interpretation—a view of the individual *en face* the state. The individual is no particular, no typical, person, but an abstraction in which are embodied those traits, rights, and tendencies that are common to all members of the community. Under the *ancien régime*, he is found to be essentially without rights, an instrument of the ruling classes. After collapse of the libertarian and idealistic constitution of 1798—the story of whose principal creator, the patrician Pierre Ochs, seems authentically as well as interestingly told—the individual attained, under the Napoleonic régime, to certain liberties, lost them again in the Restoration, and regained them through the events of 1830 and 1848. Freed after 1830 from the ancient constraints of the state, first in the cantons, then in the Confederation, the individual as master came soon to demand “more and more imperiously” the services of the state.

But the servant grown indispensable may end as a tyrant. “Perceptible in the cantons on the morrow after 1830 . . . after 1848 also in the Confederation,” was the growth of state power. In the elaboration of the present constitution, that of 1784, is to be seen a marked ascendancy of *étatisme*, the last of a three-fold historical sequence: individualism, democracy, *étatisme*. The last threatens already to destroy the other two, even in Switzerland. From having long been “an islet of free trade in the heart of a protectionist continent,” is not Switzerland now “one of the warmest hearths of contemporary mercantilism?” More generally, the dangers from the state are the same here as in the other democratic states. The future hoped for is “not blind reaction, not communist revolution, not a fascist *coup d'état* . . . but a return to more of individual liberty and less of economic *étatisme*,” the limitations of which may be seen in the everywhere mounting public debts. Admittedly there ought to be a “progress toward new forms of solidarity and social collaboration” (p. 537), in which the state will not be assigned more than it can do well. But the nature of whatever “new forms of solidarity” are envisaged is not indicated in the argument.

To anyone sufficiently set in the individualist doctrines of the older liberalism, and asking, therefore, no considerable inquiry into what the liberty of the individual may really mean, these fifteen chapters of history will not lack convincing quality. To all who have an interest in the political institutions of Switzerland, there is afforded an illuminating con-

tribution, including, with the political, not a little of the economic, as well as of strictly legal, aspects.

WALTER SANDELIUS.

University of Kansas.

Cabinet Government. BY W. IVOR JENNINGS. (Cambridge, Eng.: Cambridge University Press. 1936. Pp. xii, 484.)

The King and the Imperial Crown; The Powers and Duties of His Majesty. BY A. BERRIEDALE KEITH. (London and New York: Longmans, Green and Company. 1936. Pp. xiv, 491.)

These two volumes are important additions to knowledge of the working of British political institutions. While dealing primarily with different organs of government, both necessarily deal with the relations of the king to the cabinet; while, as both cover a larger field than is indicated by their titles, there are other topics which are discussed in the two works. Most of Mr. Keith's volume deals with the powers and duties of the king in the affairs of the United Kingdom; and only in the last chapter does he take up imperial relations. Mr. Jennings, in addition to his detailed account of the cabinet, has two chapters on constitutional monarchy and the personal prerogatives of the king, and also several chapters on the administration.

Both writers deal almost entirely with the period since 1832; and both make extensive use of the *Letters of Queen Victoria* and biographical works on the leading statesmen, sovereigns, and others in contact with public affairs. Mr. Jennings refers to more works of this kind than does Mr. Keith, and also cites more frequently official documents such as Parliamentary debates and the reports of Parliamentary committees and some royal commissions.

Mr. Keith is often emphatic in expressing his opinions, especially his dislikes; and Gladstone is almost the only prominent statesman who escapes some censure. Mr. Jennings, in general, is more moderate in tone, but at times is more positive than Mr. Keith, and shows some bias towards the Labor party.

"The influence of the crown," says Mr. Jennings, "depends upon him who wears it. . . . The impress of Queen Victoria's personality is evident on every page of the political history of England during her long reign . . . King Edward's [VII] influence was much smaller. He rarely criticized or made suggestions, though a few cases are known. The influence of King George [V] must be largely a matter of surmise." Mr. Keith holds that: "The influence which the crown may . . . exercise in public affairs is unquestionably great; how far it extends depends largely on the personality and interests of the sovereign." He questions the view that the royal prerogative declined under Edward VII and George V, as compared with the time of Victoria.

There are also differences of opinion on more specific questions. Mr. Keith holds that the choice of the king in asking Mr. Baldwin and not Lord Curzon to form a cabinet in 1922 "established the doctrine as a convention that the prime minister should under any but abnormal circumstances be in the House of Commons." Mr. Jennings states that this action "does not of itself imply that the king must never in future appoint a peer as prime minister."

During the present century, there has been discussion of the power of the king to dismiss a ministry, or to force or refuse a dissolution. Mr. Jennings holds that the power to dismiss or to force a dissolution has lapsed, and that the power to refuse a dissolution is maintained in theory, but can hardly be exercised in practice. Yet he states that the king "would be justified in refusing to assent to a policy which subverted the democratic basis of the constitution, by unnecessary or indefinite prolongations of the life of Parliament, by a gerrymandering of the constituencies in the interests of one party, or by fundamental modification of the electoral system to the same end."

Mr. Keith takes the position that: "The power to force a dissolution undoubtedly exists, but it means the dismissal of a ministry which will take office and bear the responsibility for the dismissal." But the mere possibility that this may create the impression that the king is capable of partisanship "rules out any action of this kind, leaving the final use of this power for the gravest occasions." As an instance, he states that "any Conservative attempt to restore the power of the Lords without putting the issue to the country would have to be resisted by the king." Mr. Jennings would probably accept this addition to his list of occasions; but there would be more question as to the duty of the king to accept proposals for a completely socialistic system from a Labor government.

Recent events add significance to Mr. Keith's suggestion that the threat of abdication might be used to compel ministers to appeal to the country. Such threats were made by Queen Victoria, and seem to have been thought of by Edward VII. He considers, however, that this would be a dangerous measure, not likely to be utilized. In the case of Edward VIII, the result was the acceptance of his abdication, and the writing of a new chapter in the relations of the king to the cabinet and Parliament.

Mr. Keith discusses more fully than Mr. Jennings the influence of the king in various fields, such as foreign affairs, defense issues, the established churches, and the grant of honors. Both of the authors call attention to the increasing importance of the private secretary to the king, and the part played by other "irresponsible advisers."

Mr. Jennings, as his title indicates, is concerned primarily with the working of the cabinet system, the position of the prime minister, collective responsibility, the use of cabinet committees, and the cabinet secretariat. Not the least important part of his work deals with the

administrative machinery of the government. A brief general survey is supplemented by an appendix outlining the duties of the numerous departments and offices, and by chapters on "Ministers at Work," "Interdepartmental Relations," and "Treasury Control."

JOHN A. FAIRLIE.

University of Illinois.

Samhällskrisen och Socialvetenskaperna. BY GUNNAR MYRDAL AND HERBERT TINGSTEN. (Stockholm: Kooperativa Förbundets Bokförlag. 1935. Pp. 68.)

Unghöger: Politiska Essayer. BY GUNNAR HECKSCHER. (Stockholm: Bonniers. 1934. Pp. 187.)

Pontus Fahlbeck och Samhället. BY ERIK ARRHÉN. (Stockholm: Ungsven-skarnas Skriftserie VI. 1935. Pp. 88.)

Among the scores of books relating to politics and administration which have been published privately in Sweden in the past two years, the works listed above are typical. The first is a reprint of the installation addresses delivered by Professors Myrdal and Tingsten. The second is the "battle cry" of the Young Conservatives; its author is a docent at Uppsala University, the son of the world-renowned Professor Eli Heckscher. The third is written by one of the more "regular" young Conservative leaders, and it presents the views of the moderates of the right wing.

Where is the vast body of Swedish liberal literature corresponding to our own output during this period? There is not any. This is true because, for one thing, nearly all Swedes are moderate, and there is therefore no need for polemical writing. Furthermore, no legislative novelties are ever introduced without a previous survey of the subject by experts, who are drawn from all parties and represent all shades of opinion.

The rôle of official reports in legislation merits a word of comment. When the problem of socialization came before the government of Sweden some years ago, several committees of experts were appointed, or individuals were commissioned, to prepare reports on all phases of the problem. Rickard Sandler, recently the minister of finance, was first asked to inquire into the whole problem, with special attention to theory and practice in other lands. Later, a committee, under the chairmanship of Torsten Nothin, governor-general of Stockholm, was instructed to survey the entire field of domestic resources and industrial peace. Simultaneously, other committees got under way with investigations of housing, population, and dozens of related subjects. Sandler's report, a penetrating and scholarly document, is now available, as is the Nothin report, which covers every phase of Swedish life.

By these and similar reports, the area of discussion is limited to interpretation of the facts—or to re-marshalling the facts and the theories so

that they are made to serve special interests and peculiar prejudices. In a state which is well organized socially, intellectually, and economically, that is a very small area. Consequently, privately published works confine themselves to popularizing points of view which emerge in the official reports, with occasionally, to prove the rule, some twisting of the truth to serve selfish ends.

Professors Myrdal and Tingsten are known as Social Democrats. The former, particularly, has had great influence over the administration, and might be regarded as a radical. Heckscher and Arrhén are Conservatives. To the uninitiated, it is amazing to note how often the views of all these men coincide. If one may do them the injustice of boiling down their contributions, one could say that Myrdal and Tingsten differ from their friends on the right, not in the measure of their devotion to democratic forms of government, but in their choice of problems to be attacked immediately. They, i.e., Myrdal and Tingsten, believe in turning all the intellectual forces in the realm to the promotion of stability and order on a higher level. They want the condition of the poor improved, they want the traditionally Swedish democratic instruments of government safeguarded and strengthened—because they have faith in the common man—and they expect to win universal adherence to their program because they believe that it is the only intelligent way to proceed.

My impression of the Conservative position in Sweden is that it hides its objectives behind a barrage of tactics. Heckscher is convinced that the youth must take command of the Conservative party and make it a constructive organ for the furtherance of the common good. Much of his writing is in that vein, and most refreshing it is in some respects, as when he attacks the Jewish problem. This is really not much of a problem in Sweden, and so the outside world will be more interested in Heckscher's social and financial program. As suggested above, this program is strongly liberal. It is based on the assumption that the Social Democrats move too quickly and incautiously toward the goal of complete industrial and political democracy, and that it is the function of the Conservative party to supply a salutary and sound retardation to its achievement. Arrhén, by means of a commentary on the thought of Fahlbeck, one of Sweden's pioneer political scientists, articulates the prejudices of the patriotic young Swede. Fahlbeck subscribed to the view that class distinction was a fact. He resolutely and honestly argued for the domination of the bourgeoisie, which he identified with the intellectuals. Since the Swedish parliament was composed of four estates as late as 1860, Arrhén has no difficulty in proving the validity of this doctrine—for Sweden. The Young Conservative objective is a class-differentiated but coöperating state. It is not fascist, for as Arrhén asserts, that which is untrue in national socialism, i.e., "race-hate, intolerance, regimentation, etc.," has been convincingly discredited by the German and Italian examples.

The essential "view of life" in Fahlbeck's writings is too comprehensive and intricate to be set down here. But Arrhen's little volume deserves study because of the clear and forthright manner in which he lays bare the roots of Swedish young conservatism, so puzzling to those who think of conservatism in terms of other cultures, other *mores*. Swedish conservatism accepts proportional representation, equality before the law, a measure of government intervention, and even ultimate public planning and ownership, fundamentally because it feels that these principles are suitable for the Swedish nation with its special conditions of resource, tradition, and background.

Professor Myrdal cuts across this problem from another angle. In a lecture entitled "World Trends in National Economy," he analyzes the problem of method, with illuminating paragraphs on such methodological concepts as objectivity, *Weltanschauung*, and criterions of value. The most significant sections of the treatise are those which put planning, the gold standard, and such working social objectives in their proper place. Both Myrdal and Tinsten demand the retention of the democratic form of government, academic freedom, and freedom of discussion.

But what actually distinguishes the Right from the Left in Sweden? Not these conditions; for both sides vie with each other in maintaining them. The cleavage is rather to be found in presuppositions regarding the "world" or "life." As Myrdal insists, conservatives, and even liberals, are bound by their hypotheses regarding the relations between classes, the limits to the authority of the state, and the indestructibility and immutability of certain institutions, whereas the objective political scientists merely describe what exists, then recommend experimentation as a guide to further action. This is, in Sweden, the socialist view. Can it be that those scholars who are most active in furthering the socialist cause are at heart committed to the "världsåskådning" (world-view) and the values which inspire the socialist political leaders? I suspect that it can.

New York University.

ROY V. PEEL.

Crime and Justice. By SHELDON GLUECK. (Boston: Little, Brown and Company. 1936. Pp. 349.)

Preventing Crime: A Symposium. Edited by SHELDON and ELEANOR GLUECK. (New York: McGraw-Hill and Company. 1936. Pp. 509.)

Local Democracy and Crime Control. By A. C. MILLSPAUGH. (Washington, D. C.: Brookings Institution. 1936. Pp. 263.)

A System of Criminal Judicial Statistics for California. By RONALD H. BEATTIE. (Berkeley: University of California Press. 1936. Pp. 238.)

"The more serious shortcomings in crime control are probably not to be found in organization, in law, or in procedure. The central problems

no doubt have to do with personnel and with public attitudes." The reader will find support for this observation of Millspaugh in almost every chapter of the books under review. He will find serious contradictions between conditions as the public believes them to be and the actual conditions in criminal administration, between the Pullman car bromide and the diagnosis of the expert, between the patent medicine remedy suggested by the Sunday supplement and the prescription of the scientifically trained social physician.

This is particularly true of *Crime and Justice*, which is an unusually effective attempt to popularize present knowledge concerning crime control. Covering the whole problem of criminal control, from the public tolerance of petty racketeering to the punishment of the hardened offender, it not only reflects careful scholarship, but is clearly and interestingly written as well.

Most efforts to arouse the public to the need of reform follow the ancient homoeletic principle that a conviction of sin is necessary to conversion. The formula of the muckraking decade, and of the state reorganization revival, is quite as useful in promoting a renaissance of criminal justice. Hence, we have the dirty courtrooms, the law's delays, judicial ignorance, incompetence of magistrates, the *via dolorosa* of youth on city streets all portrayed with sufficient detail, vividness, and statistical evidence to convince all but the most hardened. Nor is it a criticism of Dr. Glueck to point out that only passing attention is given the distinct improvements which have been made in various aspects of criminal justice during the past score of years. To emphasize them would only have detracted from the effectiveness of the final two chapters, in which he points to the sawdust trail of repentance. It is significant, however, that there seems to be a surprising dearth of scientific evidence to support the author's obviously sensible proposals for reform. Of course, Dr. Glueck cannot be blamed for this any more than any other social scientist. We tend to become so engrossed in the sins of society that we have neglected to study the steadfastness of our converts.

"After centuries of activity, Justice is blind to the very fundamentals of her work. In many places, she does not know how many crimes are reported to the police, she does not know how efficient are her various knights in terms of the numbers and proportions of cases they dispose of and the manner of the disposition . . . So Justice gropes blindly, an easy prey to her betrayers, to uninformed and equally blind reformers, to her own mistakes." This indictment of Glueck should present a challenge to social scientists.

The most hopeful efforts to improve the insight of Justice have relied on fuller and more accurate criminal and judicial statistics, but these are usually obtained by having a local official report the number of cases

falling under prescribed classifications. Unfortunately, most court clerks have neither the statistical training, legal competence, nor social vision to insure complete and accurate reports. Some of the statistical data collected in this way are almost fantastic in their inaccuracy. For example, Beattie in his *Criminal Judicial Statistics in California* found that both the attorney-general and the judicial council collect data on such matters as the number of defendants prosecuted, the number charged with felonies, the number convicted, and the number sentenced. In the biennium which he studied, the number of cases reported by these two agencies do not agree in a single particular. In total, the attorney-general reported nearly 3,500 defendants who escaped the judicial council's notice.

In 1930, the Bureau of Public Administration of the University of California inaugurated a research project to test the feasibility of another method of compiling judicial statistics: "the reporting of certain details on each case handled by the court to a central agency, where the information can be tabulated and analyzed." Beattie's volume, which is a report on this project covering a single fiscal year (1931-32), should convince the most skeptical that the bureau's method is both sound and economically feasible. It gives ample evidence of most careful workmanship and contains a full description of the techniques used in reporting and analyzing the data.

Although the work is most important as a methodological contribution to the problem of opening the eyes of Justice, the summary of "the more important factors in the prosecution and trial of felony cases" is of considerable value. Even though the bureau lacked official support for the work and the statistics cover only a single year, there is rather striking evidence of a positive relationship between the chances of conviction and the speed with which a case is disposed of. The longer the trial, the less chance of punishment. It is also clear that the evils of political prosecution are considerably more apparent in two of the counties studied than in the third.

One of Glueck's proposed reforms is the establishment of a state department of justice in which the various technical services in the administration of the law should be consolidated. His discussion does not make it clear why such an integration of law enforcement should occur at the state, rather than at the county, level. The argument on this point has been supplied in an admirable way by Millspaugh in his *Local Democracy and Crime Control*. As its name implies, this is much more than a discussion of the specific work performed by the sheriff, court judge, or prosecuting attorney. It is rather a penetrating discussion of the value and functions of local government, with some reference to the crime problem.

Millspaugh finds that an efficient county should have between 20,000 and 25,000 population, living in an area of not more than 6,400 square

miles. Tested by this yard-stick, only one-half of the counties in the United States are large enough in population to give efficient service. Consequently, their only justification must lie in some other local self-government value, such as friendliness of the government, the preservation of democracy, an opportunity for initiative, careful spending, and the development of a watchful citizenry. Dr. Millspaugh weighs these values one by one and finds each of them wanting. "When friendliness permeates government, it wastes time and money." "The preservation of democracy probably depends less on governmental structure than on the solution of fundamental economical problems and on the maintenance of the prestige and power of representative legislatures." "Local self-government provides, theoretically, an opportunity for initiative, but how rarely have counties seized the opportunity! Initiative appears to have come in most cases from the nation, the state, and the city." "The small self-governing unit tends to defeat its own ends. By encouraging debt, it breaks down the chance of financial responsibility on which stable popular government depends; and by wasting taxable resources, it saps the prestige of democracy." And finally, "atomization of government clouds the sources of public information."

The first alternative to the present arrangement of local government is some plan for regional readjustment, such as county consolidation, the use of functional districts, or the elimination of city-county overlapping. Except for the last method, the author finds that "regional readjustment does not seem to take us far towards solving the problems of local democracy." He is similarly pessimistic concerning the internal reorganization of the county, believing that manager-government is feasible only in less than one-half of the counties. There is little chance of efficient county organization as long as the county is too small to render really economical service. The third alternative lies in the transfer of many county functions to state agencies. This would not necessarily eliminate the county. There are numerous functions which may be best exercised under local control, such as the registering of property instruments, and there will always be some communities which desire services not wanted in others, such as sidewalks, museums, theaters. Furthermore, there are various functions, e.g., library service, which are in the early stages of development and for which favorable local opinion can be developed easier than support can be secured on a state-wide basis. But there are many services, and this applies with particular force to crime control, which only the state can handle efficiently.

Dr. Millspaugh is much too sagacious to insist that anyone is able to lay out a completely perfect system of state criminal organization. His last chapter is indeed a plea for research in this field and an outline of the forms which this research might well take. Students of government might

profitably take to heart his suggestion that they study the immediate problem of applying their findings, as well as the ultimate goals to be reached.

The most promising attack on crime control would seem to be in preventing crime rather than in superior policing, more effective prosecution, or more accurate statistical reporting—important as they are. Acting on the theory that many criminals are made and not born, a number of private organizations and public agencies have engaged in programs designed to redirect into constructive channels the energies of young people who otherwise might fall afoul of the law. Twenty-four of these projects are reported in the symposium, *Preventing Crime*. They cover such varied approaches as educational work, the coördination of community social activities, police crime-prevention bureaus, citizenship colonies, and recreational agencies. Naturally, the efficiency of these activities depends to a very large extent upon the development of a trained and sympathetic personnel to carry them into effect; but with adequate public support such a personnel may be recruited. The fundamental difficulty is rather the attitude of the public. As long as we continue to regard crime in terms of personal responsibility, it will be difficult to embark on a broad social program of crime prevention. But if we can once convince society that it is really fostering crime by its muddling, we may, to use Millspaugh's phrase, "stop skidding to our destination and drive toward it under control."

RODNEY L. MOTT.

Colgate University.

Federal Justice. BY HOMER CUMMINGS AND CARL MCFARLAND. (New York: The Macmillan Company. 1937. Pp. ix, 576.)

The first Attorneys-General were part-time officers charged solely with the tasks of handling federal litigation before the Supreme Court and advising the President and heads of departments on legal matters. Until 1814, they were not even required to reside at the capital, and it was not until four years later that an office and clerk were furnished at government expense. Consequently it was not surprising that William Wirt, on assuming office in 1817, wrote President Monroe that he was unable to find "any trace of a pen indicating in the slightest manner any one act of my predecessors." Resolving to do better by his successors, he entered copies of all of his opinions and correspondence in his "opinion book" and "letter book," establishing a custom which set the general pattern of record-keeping followed until the reorganization of 1904. But when the Department of Justice was created in 1870 it did not take over the earlier records, which ultimately found their way, together with bundles of miscellaneous manuscripts and papers, into the storage rooms of the Library of Congress.

The incumbent Attorney-General, acting through a staff of trained research men, undertook to analyze and classify all of this material, together with the more recent data in the files of the Department of Justice. Finding, he tells us, that "a picture of American history from a new point of view was unfolding" before his eyes, he was prompted to write the first rounded account of the history of his office and of the Department into which it has evolved. The resulting volume, written in a clear and simple style, is one of substantial value. Such matters as Taney's rôle in the struggle with the Second Bank of the United States; the sordid "legal" side of reconstruction; efforts to curtail private exploitation of natural resources; the activities of the Department of Justice during and immediately after the World War, and its rôle in labor cases, are adequately and dispassionately summarized. The gradual but apparently inevitable evolution of a national police force, and of centralized supervision over federal district attorneys, are traced. Copious references in the footnotes, and an adequate index, add to the book's usefulness. However, it contains little that is new. Even the publisher's promise of new light on "the hitherto undisclosed methods of selecting judges" simmers down to a repetition of facts already well known to political scientists interested in legal matters.

Although the volume was released just a month prior to President Roosevelt's message to Congress on reorganization of the federal judiciary, there appears to be no connection between the two occurrences. Otherwise, plans to force the retirement of aged judges would have been given greater emphasis, particularly that of Attorney-General (now Justice) McReynolds (p. 531).

J. A. C. GRANT.

University of California at Los Angeles.

Brandeis: The Personal History of an American Ideal. BY ALFRED LIEF. (Harrisburg, Pa.: Stackpole Sons. 1936. Pp. 508.)

In this book, Mr. Lief is not concerned primarily with the twenty years in which Louis D. Brandeis has been a member of the Supreme Court. This period is not entirely neglected, but the student of Brandeis' place in the work of the Supreme Court will find much more comprehensive accounts in previous books and essays. Mr. Lief's selection of cases is reasonably complete, but he does little more than summarize or quote from Brandeis' opinions. And, doubtless to underline the non-legal character of this study, he carefully avoids giving the names of the cases with which he deals. Even the rather long quotations from the dissenting opinion in the *New State Ice* case are accompanied by no references to title, volume, or page, and this although the author evidently believes that this opinion is particularly representative of his subject's point of view.

On the other hand, the book tells us a great deal about Brandeis' life,

and especially about the very large part of his life that has been devoted to attempts to bring a greater measure of justice into a world where there is all too little of it. His struggles for savings-bank insurance in Massachusetts, for conservation, against the "trusts," against the New Haven management; his support of Wilson in 1912; his adherence to the Zionist movement—all of these and several lesser campaigns are discussed in considerable detail. His legal career in Boston, together with the charges brought against him in 1916 by men whom he had antagonized during his long career as an attorney and a crusader, are described carefully.

Since the book is professedly a study of "an American ideal," it does not seem too much to expect to find a clear statement of that ideal. In the concluding chapter, there are some general observations on the character of Brandeis' philosophy, but no coherent attempt at analysis. We are told that "Brandeis was willing to be called a Jeffersonian." So is Mr. John W. Davis. The vagueness of this characterization is not dispelled by the statement on the following page to the effect that "Brandeis' political and economic vision was closer to anarchism." How does Mr. Lief reconcile this with Brandeis' advocacy of many forms of government regulation? He says that Brandeis "liked to think of the Scandinavian countries, where the socialist governments were not socialist in action—they did not have to be; independent groups worked out the answers." But the coöperatives in Scandinavia are accompanied by a great deal of government ownership and regulation. I do not mean to suggest that Brandeis' thought is self-contradictory, but I do wish that Mr. Lief had set forth more clearly his own interpretation of Brandeis' philosophy. And I also regret that there is no critical estimate of Brandeis' ideas and work. We may agree that Brandeis is a man of extraordinary ability, even a great man. But it does not follow that he has a firm grasp on the whole of economic truth. It is as yet too soon to be certain about the importance of the system of savings-bank insurance, or the factual brief, but what evidence is there that they have had, or are likely to have, any considerable influence? Does the doctrine of littleness betoken great social insight, or is it a nostalgic dream, unrealizable under modern conditions? It is disappointing to find no questions of this kind raised.

BENJAMIN F. WRIGHT, JR.

Harvard University.

Le Droit Chinois. BY JEAN ESCARRA. (Pékin: Henri Vetch. 1936. Pp. xii, 559.)

The author is probably the best qualified Westerner to write on the general subject of Chinese law, both ancient and modern. He has long been a professor of law in France, and for the past fifteen years he has been associated, directly or indirectly, with the codification commissions of China. He has always held out for an adaptation of Western law to the

needs and prevailing customs of Chinese society and deplores the hasty legislation of recent decades which has consisted largely in translating and synthesizing Western codes. This the modern codifiers have in fact been led to do in an effort to meet the conditions laid down by Western nations enjoying extraterritorial privileges which must be fulfilled before these nations will restore to China its sovereign control over their nationals resident there. But he sees now the beginning of a new period of study of the old law and of current conditions in Chinese society, upon which law-makers and judges must in the future come more and more to rely.

The author's interest in the history of the law of the *ancien régime* dates back to his early years in China. In this work he has given the best summary treatment of philosophical conceptions underlying that law, as well as its historical development, that exists in any Western language. This, together with his select bibliography (over seven hundred items, a large percentage of which were published after 1903 when the period of modern codification began) serves as an excellent introduction to the study of Chinese law. The book likewise gives the fullest historical account of the period of codification under the influence of Western law and the attendant problems connected with the attempted applications of these over-Westernized codes in the modern courts.

It is a unique book, the reading of which will carry the reader to the very heart and core of the old society as well as give him a fuller grasp of the problems confronting the leaders today in their efforts to modernize this ancient society and introduce into an Oriental culture Western principles of jurisprudence. The author discusses the developments of the codes under the *ancien régime*; the influence upon Chinese law of the Confucianists who advocated the rule of society by men under the influence of a natural moral order; of the legists who believed in the government of men by laws rather than principles; and he makes some comments on the influence of Buddhism on the law, notably its effect in humanizing the law and punishment, and maintaining the principle of equality before the law.

For centuries, fully a third of the human race has lived and attained a high degree of cultural development under the rule of Chinese law—a rule which expanded beyond the boundaries of China to Japan and to Annam. In the study of that law, there lies a rich mine of unexploited social experience. The fields of historical and comparative jurisprudence will be circumscribed and incomplete as long as Chinese law remains beyond their purview. Professor Escarra, in this book, has made a general survey of the field and has sunk down a shaft or two in order to assay the rich ore which lies beneath. Lawyers and students of historical jurisprudence and comparative law will discover this record of his findings to be enrichingly suggestive and thought-provoking.

CYRUS H. PEAKE.

Columbia University.

Hamilton Fish; The Inner History of the Grant Administration. BY ALLAN NEVINS. (New York: Dodd, Mead and Company. 1936. Pp. xvii, 932.)

Not only is this weighty volume an excellent biography of Hamilton Fish but, as the sub-title indicates, it presents a most illuminating account of the administration of President Grant. The term "inner history" is well chosen. Fish was a member of the Grant cabinet throughout the administration and kept a detailed record of the daily happenings in Washington. This record, as Professor Nevins explains in his note on manuscript sources, includes a diary of perhaps 1,000,000 words, for the years 1869 to 1877; forty-eight letterbooks for 1839 to 1893; a great mass of letters received; nine pocket memorandum books for 1883 to 1891; copies of manuscript instructions to our envoys abroad; copies of Fish's correspondence with foreign legations in Washington; and much other invaluable material. These papers have been used very extensively by Professor Nevins. They are emphasized here, for it is seldom that so rich a mine of new information is opened to a biographer. Professor Nevins has made the most of his opportunity. Fish was not a brilliant Secretary of State, but he took a firm stand for honor and honesty in a period when those ideals seemed almost to have disappeared from public life.

At first glance, the book would seem to be strangely constructed. Only about one hundred pages are devoted to the first sixty years of Fish's life and thirty pages to the last twenty years, leaving the bulk of nearly eight hundred pages to the short period of eight years; but it was in these eight years that Fish performed his great service to the nation.

It is difficult in a brief space to do justice to this biography. A descendant of several of New York's most prominent families, Hamilton Fish was trained for the law. A term in Congress passed uneventfully for him. This was followed soon after by two years as governor of New York. Only the untimely death of President Taylor prevented Fish's nomination to the position of Secretary of the Treasury in the Taylor Administration. In 1851, he returned to Washington as senator, but again attracted little public attention. However, as a member of the Senate Committee on Foreign Relations for two years, Fish learned much that was to prove of value to him later. A visit to Cuba and an extensive journey in Europe also added to his information on international affairs. He aided with pen and money in Grant's campaign for the presidency, but gave little thought to further personal participation in political life. It was a distinct surprise to him, therefore, when Grant offered him the post of Secretary of State, which he reluctantly accepted.

Fish's official career has been divided into three parts by Professor Nevins (p. 638): "One year in which he [Fish] wrested full control of the State Department from Grant; four years in which he used that control to preserve peace with Great Britain and Spain, and to accomplish other

important tasks; and three years in which he reached out for a larger measure of authority in an Administration that was increasingly disgraced and demoralized." Threatening to resign on several occasions, and actually presenting his resignation to President Grant more than once, Fish finally decided to remain to the end to salvage what he could from the unscrupulous men who so closely surrounded the President. The story proves that Fish had a wide measure of success.

In foreign affairs, Fish was faced with many troublesome problems, ranging from the Dominican affair and the bloody strife in Cuba to the settlement of the Alabama claims and other disputes with Great Britain. The misdeeds and peculations of ministers, American and foreign, disturbed him greatly. On all of these events his letters and diary throw much new light. Through it all he sought peace. It was his firm belief that everything possible should be done to avoid the terrible evil of war.

Professor Nevins is generous in his praise of Fish, but he does not fail to criticize him where he thinks criticism is due. So, too, while condemning Grant for his weak and vacillating ways, Professor Nevins gives him his just due for his refusal to use troops unnecessarily to assure Republican success in the Southern states in the Hayes-Tilden election.

The book contains an introductory note by John Bassett Moore, who had hoped to write the life of Fish. There is a critical note on manuscript sources (already referred to), but no detailed bibliography. The book is indispensable to all students of American history and government.

EVERETT S. BROWN.

University of Michigan.

Zoning; The Laws, Administration, and Court Decisions During the First Twenty Years. BY EDWARD M. BASSETT. (New York: The Russell Sage Foundation. 1936. Pp. 275.)

The history of zoning in the United States goes back some twenty years. Prior to that time, in 1913, a study was made in New York of regulations to limit the height and size of buildings. This was followed by a report on the possibilities of regulating, under the police power, the height, area, and use of buildings. The author of this book served on both of the commissions making these studies. With the adoption of the first comprehensive zoning ordinance, that of New York City in 1916, Edward M. Bassett was appointed counsel to the Zoning Committee of New York. He has served in that capacity since. In addition, he has served as counsel for numerous other cities throughout the country. The book embodies all of Mr. Bassett's experience during this twenty-year period.

The volume properly starts with a discussion of the relation of zoning to state constitutions. This is followed by a chapter on state enabling acts for zoning. Then there is a detailed discussion of the adoption and amend-

ment of zoning ordinances, with a description of the various types of zoning districts.

Non-conforming uses have always been a troublesome problem in the drafting of zoning ordinances. There appears to be adequate authority for the elimination of so-called non-conforming uses, but conservative zoners have recommended that non-conforming uses be allowed to remain except in cases of total destruction by fire or otherwise. The so-called liberal group of zoners has been suggesting that steps be taken to eliminate all non-conforming uses over a period of years. Both views are discussed by Mr. Bassett.

The board of appeals has been called the "safety valve" of the zoning ordinance. It is discussed at length in Chapter VI. Chapter XI, dealing with "Particular Buildings and Uses," will be of benefit to the layman. The average person approaching a zoning problem thinks of it in terms of a boarding house, a hotel, a hospital, a garage, a gasoline station, a restaurant, a cemetery, etc., etc. This attitude has prevailed even in some courts which have given lip service to zoning in saying that they believe it to be legal, only to follow such a statement with a decision that in this particular instance of the junk-yard, store, or hospital, the zoning is unreasonable. As a matter of fact, some courts have used this form of argument to substitute their judgment for that of the legislative body.

The Bassett attitude has been one of conservatism and slow progress in the steady building up of the zoning law. There are others who feel that the courts are ready to uphold more advanced zoning which is plainly in the public interest. Mr. Bassett says: "In the outlying boroughs of New York City, landowners in residential developments have urged residential zoning of nearby localities bordering on railroads because such zoning would tend to protect their own homes. This was quite regardless of the fact that the land near the railroad should be preserved for future industries." Obviously, property which, according to a rational land-use program, will be needed for industrial purposes should not be zoned for residential purposes. On the other hand, it should not be assumed, and is not assumed by liberal zoning practitioners, that all property abutting upon a railroad is necessarily industrial. Many railroads run through residential areas where there is no logical reason for industrial zoning, and where the abutting land might properly be zoned for residential purposes.

This is unquestionably the best book on zoning which has appeared since Frank Williams published *The Law of City Planning and Zoning* in 1922. There is a bibliography and an index of cases.

WALTER H. BLUCHER.

American Society of Planning Officials.

War Our Heritage. By JOSEPH P. LASH AND JAMES A. WECHSLER. (New York: International Publishers. 1936. Pp. 159.)

"We or They"—Two Worlds in Conflict. By HAMILTON FISH ARMSTRONG. (New York: The Macmillan Company. 1936. Pp. viii, 196.)

The dilemma of pacifism has never been more acute and insoluble than in the present era of impending war. In the bellicose dictatorships, pacifism is suppressed. In the democracies, pacifists become allies of war-makers abroad in proportion as they hamper military preparedness and weaken the ability of democratic states to resist and restrain military aggression. This dilemma has repeatedly confused and rendered sterile the peace movement—in the United States no less than in Britain and France.

The cry for peace among American undergraduates is ably and sympathetically described in the stimulating volume by Lash (executive secretary of the American Student Union) and Wechsler (editor of *The Student Advocate*, author of *Revolt on the Campus* and former editor of *The Columbia Spectator*). Bruce Bliven, in his introduction, rejects the gospel of non-resistance, but hails the peace movement on the campuses as the hope of the future. The authors review the struggle against the R.O.T.C., the Oxford Oath movement, anti-war strikes, the "Veterans of Future Wars," and other phases of the fight against militarism by student liberals and radicals. Their work should be required reading for all college presidents, trustees, deans, and professors! The initial chapter, "M-Day," is a brilliant piece of imaginative satire describing the impact of the next war on American academic life. The closing chapter, "Please Omit Flowers," is more realistic than most peace literature. It contends cogently that militarism in America must be resisted because it may lead to fascism. But it does not quite face the paradox presented by a world in which the democracies are helpless before the dictatorships unless they arm and militarize themselves to a comparable degree.

This paradox flows from the fact that a house divided against itself cannot stand. The irreconcilability of the liberal and totalitarian ideologies is the theme of the scintillating pamphlet from the pen of the gifted editor of *Foreign Affairs*. Mr. Armstrong holds that there can be no peace, no understanding even, between disciples of liberty and the apostles of tyranny, whether in Rome, Berlin, or Moscow. He documents his argument with facts, quotations, and masterly analysis. He takes his text from the dictators. Thus Mussolini: "The struggle between two worlds can admit of no compromise . . . Either we or they! Either their ideas or ours! Either our state or theirs!" And thus Lenin: "An obituary will be sung either over the death of world capitalism or the death of the Soviet Republic." Here freedom lives. There it is dead. The "Gulf Between" cannot be bridged.

In ringing prose, Mr. Armstrong summons the defenders of democracy to meet the challenge of totalitarianism, both nationally and internationally, and to remember that eternal vigilance is the price of liberty. The present reviewer sees no escape from these conclusions. Pacifism has become an irrelevance. Only a democracy in arms can defend itself from those who have unsheathed the sword against it. If this involves the danger that democracy may be destroyed by its own militarists, or that civilization may be wrecked in the clash of the embattled crusaders, these risks too must be faced. For there is now no alternative.

FREDERICK L. SCHUMAN.

Williams College.

And Fear Came. BY JOHN T. WHITAKER. (New York: The Macmillan Company. 1936. Pp. 273.)

Neutrality and Collective Security. BY SIR ALFRED ZIMMERN, WILLIAM E. DODD, CHARLES WARREN, AND EDWIN D. DICKINSON. (Chicago: University of Chicago Press. 1936. Pp. xviii, 277.)

Blackstone's dictum that humans are motivated by their wants and fears is given illustration on the international plane from several angles in these two books. Mr. Whitaker, after acquiring a sympathetic interest in the League of Nations at the University of the South, went to Europe for the New York *Herald-Tribune*, and was stationed as correspondent at Geneva, Berlin, Vienna, Rome, and in Ethiopia. In Africa, his young Italian driver asked him why wars occurred, and the book is a lively review of the history he has seen from the backstage, in answer to Francesco's question. The attractively personal narrative of his well-balanced and keen observations presents a spot picture of international political events from 1931 to 1936 much worth reading. It is a good book full of journalistic, but yet intelligent, overtones.

The lectures of 1936 on the Harris Foundation are published in *Neutrality and Collective Security*, two thirds of which is devoted to collective security. The three lectures by Sir Alfred Zimmern on "The Problem of Collective Security," by an easy and rather leisurely philosophical route, set forth that unity of popular will did not exist to support the conditions of law and order which the League of Nations was intended to provide; that out of past economic anarchy has come a dominant group of states which make social progress their goal; and that these "welfare states" are gradually weaving together a social integration which will insure the collaboration requisite for "the safety of all by all." Mr. Warren's cogent paper on "Congress and Neutrality" continues his constructive dissection of this alibi or excuse for not facing the necessity of cooperation to prevent the happening of war. Here he analyzes the merits and defects of the neutrality legislation of 1935 and 1936. Dean Dickinson, in his well-

informed review of "The United States and Collective Security," concludes that consultation and coöperation founded upon general covenants of non-aggression may be envisaged as a universal approach to the desired security, with sanctions left to those who are willing to use them. As editor, Quincy Wright appends to the papers the salient documents, so that the volume can be both read and studied.

DENYS P. MYERS.

World Peace Foundation.

Propaganda and Dictatorship. EDITED BY HARWOOD L. CHILDS. (Princeton: Princeton University Press. 1936. Pp. vi, 153.)

As a direct outgrowth of round-table discussions during the annual meeting of the American Political Science Association at Chicago in December, 1934, the papers making up the present volume will be of particular interest to its members. Moreover, as Professor Childs points out in his introduction, they deal with two topics which have attracted a great and constantly increasing amount of attention. Undoubtedly "the world is both propaganda-conscious and dictator-conscious." Hence *Propaganda and Dictatorship* should appeal to wide circles of the general public as well as to the specialist.

Of the papers making up this volume, the first four discuss the facts of propaganda as presented in several contemporary dictatorships, while the remaining two are devoted to the theory underlying political propaganda in general. In the first series, Professor Fritz Morstein Marx deals with Germany, Professor Arnold J. Zurcher with Italy, Professor Bertram W. Maxwell with Soviet Russia; and since propaganda in the Danubian dictatorships is but a pale copy of Russian, Italian, and German models, Professor Oscar Jászi devotes himself more particularly to the ideologic foundations of the Austrian, Hungarian, Yugoslav, and Rumanian dictatorships. As a whole, these papers deal briefly and clearly with the agencies, methods, aims, and results of political propaganda in the countries named. Particular attention is given to press, radio, and cinema; but schools, youth organizations, labor organizations, and the characteristic one-party systems are also duly considered. The writers display admirable restraint: successes as well as failures of dictatorial propaganda are recorded. In general, however, the reader is impressed with its deleterious effects as indicated by Professor Zurcher, particularly with reference to Italy, in the following words: "the prostitution of education, the warping and suppression of truth, the instillation of false and dangerous doctrines, and the evocation and aggravation of emotions which lead to social violence."

The fifth paper, by Professor Harold D. Lasswell, is entitled "The Scope of Research on Propaganda and Dictatorship." It develops rather

ambitious plans for investigation, suggesting, among other things, methods for determining the volume of propaganda, e.g., by the collection of exact data on "the per capita distribution of propagandists, the proportion of the national income devoted to propaganda, and the hours per capita of exposure to propaganda." In addition, Professor Lasswell presents some extremely interesting considerations regarding the effect of propaganda on world political development to date.

Professor George E. G. Catlin closes the volume with a paper on "Propaganda as a Function of Democratic Government" which is noteworthy for its mastery of the philosophic background. Nevertheless, it deals trenchantly with a question of the most practical character, namely, how democracies should meet propaganda designed for their overthrow. Briefly stated, his answer is that while democratic government "is completely precluded by its own principles from all use of propaganda, it is . . . free and under an obligation to encourage voluntary agencies, and particularly party agencies, to put forward the views upon which its own authority rests." In addition to the formulation of this general principle, Professor Catlin deals with various of its practical applications. For us of the United States, the question is as yet academic; indeed, as a result of the thoroughgoing repudiation of demagogues in the election of November, 1936, it may seem scarcely worth further discussion at this time. Other democracies, however, have had to face not only subversive propaganda but civil war as well. Our turn may come, and since forewarned is forearmed, one may at least hope for future round tables of the American Political Science Association to thresh out the question in all its details, including the drafting of possible legislation against armed and uniformed political organizations.

ROBERT C. BROOKS.

Swarthmore College.

The Discussion of Human Affairs; An Inquiry into the Nature of the Statements, Assertions, Allegations, Claims, Heats, Tempers, Distempers, Dogmas, and Contentions which Appear when Human Affairs are Discussed and into the Possibility of Putting Some Rhyme and Reason into Processes of Discussion. BY CHARLES A. BEARD. (New York: The Macmillan Company. 1936. Pp. 124.)

If the purpose of a subtitle is to help cataloguers, the foregoing leaves little to be desired. But the distinguished author of this little book uncovers nothing that is new or startling when he informs us in the opening sentence that the discussion of human affairs is going on all over the world. Nor will he provoke much dissent from his proposition that the causes, nature, and consequences of this world-wide discussion are worth looking into. One does not look into the subject very far, however, before

finding that much of this discussion of human affairs is founded on "habitual assumptions," that is, on ideas which people take for granted whether they are warranted in so doing or not.

It must be so, the author argues. Notwithstanding the assurance of the candidly scientific that they are concerned only to discover the naked facts, and to use them with complete objectivity, it is Professor Beard's conviction that an effort "to discuss human affairs on the assumption that no assumptions are to be made" must inevitably prove futile. The claim of Pareto, "We have no preconceptions," is questioned by the author as a statement of fact. It is an assumption, and one that is not borne out by a treatise on general sociology in which both text and footnotes are "crowded with the kind of disdainful, bitter, and derisive remarks never found in any work on natural science by a writer of acknowledged competence" (p. 36). "How he or anyone else could reach the age of maturity . . . without arriving at any habitual assumptions must remain one of the seven wonders of the world" (p. 34). So much for Pareto!

One of the author's major postulates is that since "all human affairs are enclosed in history," and since recorded history has always been a hopeless mixture of fact and opinion, it becomes essential to the rational discussion of human affairs that we shall have knowledge of the various points of view from which expressions of opinion proceed. If those who discuss human relations appreciated the need not only of gathering facts but of understanding the process of interpretation, we would have less intolerance and some of the edge would be taken off bigotry. There would also be a moratorium on speeches in Congress.

The book is written in the author's usual epigrammatic and sprightly style, but it is not likely to have much lure for the general reader. It is rather for the historiographers to scan and be pleased or provoked as the case may be. Theories concerning the proper interpretation of history (all the way down from Ranke to Barnes) are punctured like so many toy balloons. "No theory," writes Dr. Beard, "can embrace the totality of history." One reviewer calls the book a disinfectant to be dusted on writers or syndicated newspaper articles and on platform orators. But to hope for its efficacy in that direction is asking much. Probably it will be most generally and most approvingly read by those who need it least.

WILLIAM B. MUNRO.

California Institute of Technology.

Are American Teachers Free? BY HOWARD K. BEALE. (New York: Charles Scribner's Sons. 1936. Pp. xxiv, 856.)

Curriculum-Making in the Social Studies. BY LEON C. MARSHALL AND RACHEL MARSHALL GOETZ. (New York: Charles Scribner's Sons. 1936. Pp. xvii, 252.)

The first of these volumes is Part XII, and the second Part XIII, of the Report of the Commission on the Social Studies which was set up by the American Historical Association a number of years ago.

It is not necessary to read every one of the 778 pages preceding the appendix in Dr. Beale's book to learn whether American teachers are free. The eighth page is enough. There the reader is informed that "because no agreement can be reached on desirable limits for freedom, the ideal of complete freedom will be used as a standard or test of particular situations as they arise." The author evidently sets "individual" over against "social," like the old state of nature theorists, and assumes that social sanctions inevitably mean coercion, limitations on individual freedom. Persons who are aware of the tough strands in the social web will not be surprised that, in many communities, teachers are not free to advocate, or even to discuss sympathetically, pacifism or communism; or to question the validity of historical myths; or to suggest that man may have evolved from some other form of animal life; or to choose textbooks; or to decide on teaching methods; or to use tobacco and alcoholic beverages; or to associate with pupils of the opposite sex; or to disregard countless taboos. That the author has found so many instances of teachers' imprudent conduct may be news to those who are not acquainted with a few score of the profession nor with the ideal of meticulous historical research. Whatever may have been their preparation for teaching, most of the persons investigated seem to have thought that they were employed to teach in a vacuum, that there was complete insulation between the school and "the world outside," a favorite phrase among pedagogues. •

The author might have made a greater contribution had he centered his efforts upon methods whereby teachers may, without endangering their positions, or provoking bitter conflicts, become aware of the tensions in their respective communities. Certainly teachers who are susceptible to persecution complexes should not be "free" to read this compilation of "restraints on complete freedom."

The second volume is the antithesis to the first in its treatment of social phenomena. The title inadequately indicates the broad scope of the work which the authors have undertaken. In effect, they propose to make the entire curriculum a study of social processes. They contend that "all studies are essentially social. . . . Realization that human experiences and knowledges are in essence cultural; that the fundamental purpose of the school is the selection and transmission of culture; and that cultural living may be summarized under a few great basic processes, should dominate all instruction." Their "frankly opportunistic" classification reveals six basic processes, "basic to all groups, past or present, large or small." These processes comprise "culture," which is "synony-

mous with all that is peculiarly human in the way man lives." Since culture "has its roots deep in the biologic capacities of man," and since "cultural human living is also conditioned by the external physical world," the authors would utilize materials in these as well as in the more narrowly conceived social sciences for their "social process approach" to curriculum-making.

Emphasis is upon "a point of view and a methodology which, with a minimum of disruption and revolutionary change" in present-day material and school organization, will facilitate intelligent "selection and transmission of culture." In discussing one phase, they admit that "most teachers are not now trained to take such a comprehensive view, nor is the organization of available materials very helpful." However, "the task is largely one of organization; most of the materials are at hand. . . . The social process approach provides a social theory; this in turn furnishes criteria against which to measure alternative schemes of organization."

The merits claimed for the "social process approach" and the illustrative material, encyclopedic in scope, "marshalled" in support of the thesis should be examined by everyone interested in education. Social scientists, in particular, contemplating the results of their instruction, will be disposed to investigate the possibilities of the process approach.

HOWARD WHITE.

Miami University.

Psycho-Analysis and Social Psychology. BY WILLIAM McDUGALL. (London: Methuen and Company. 1936. Pp. viii, 207.)

In these days when the need for a solid psychological foundation in the social sciences is increasingly felt by all those who are profoundly dissatisfied with a purely eclectic approach to the problems of human nature and conduct, and when the Freudian interpretation has made such an impetuous and often immature inroad into the explanation of political developments, this volume of the distinguished founder of social psychology will be welcome to all who dislike dogmatic slogans and hasty generalizations.

The work of Professor McDougall contains his lectures delivered at the University of London on the teaching of Professor Freud and his school, with the addition of four essays on the same subject previously published in various magazines. The author does not speak as the leader of an antagonistic school hostile to Freudism. On the contrary, he has a very deep appreciation of the Viennese scholar who, according to him, "has . . . done more for the advancement of our understanding of human nature than any other man since Aristotle." Yet his criticism is very outspoken, and sometimes sharp and ironical. He shows clearly, and for

the most part conclusively, the main faults of the Freudian system: the lack of precision in its definition; its tendency to false generalization and extreme simplification; its disregard for antagonistic facts; the frequently careless manipulation of the tenets of its catechism such as Super-ego, Ego, Id, Libido, Oedipus Complex (which was fitly called the "ark of the Freudian covenant"), and that "most bizarre monster of all his gallery of monsters . . . the Death Instinct;" its haughty disregard of important movements and currents which cannot be explained by the sacred formulae.

But, whereas these dangerous tendencies are more than compensated in the work of the master by the intuitive force of a real genius, they often assume in the works of his innumerable disciples intolerable dogmatism, a brutal disregard for common sense, and an intolerant attachment to creeds which the master himself revised or qualified. Professor McDougall demonstrates convincingly how these qualities undermine the scientific spirit by the undue over-emphasis of sex and hurt social coöperation by the uncritical rejection of all types of repression.

The reviewer does not know of any other book which in so short a space has amassed all the essential facts and theories of the Freudian school. At the same time, it strongly emphasizes those aspects of the system which will add mightily to the elaboration of a system of social psychology to which the author has made such a remarkable contribution through his own researches, so full of acute observation and deep philosophic insight.

OSCAR JÁSZI.

Oberlin College.

BRIEFER NOTICES

AMERICAN NATIONAL GOVERNMENT AND CONSTITUTIONAL LAW

Professor Felix Frankfurter's *The Commerce Clause* (University of North Carolina Press, pp. 114) analyzes the function of the Supreme Court under Marshall, Taney, and Waite in directing the stream of constitutional history through the commerce clause. Because the application of this clause illustrates the peculiar problems of a federal system, around it is built much of our constitutional development. Marshall's rôle is outstanding because he created a conception of a "dormant" commerce clause to liberate trade from restrictive state legislation, even where Congress had not acted. In addition, Marshall was a statesman, and he realized that the court's function in statecraft depended on an essential pragmatism. Later, others less competent made his "purposed ambiguity" the basis for sterile dogmatism. Second only to Marshall was Taney. His statesmanship manifested a consciousness of the inability of the Court to discharge adequately the discretionary, political

functions undertaken by Marshall. Through stricter construction, Taney sought to limit the scope of judicial discretion, and deference to the legislature became the device for counteracting Marshall's nationalism. Waite, the lawyer, made of Taney's policy a legal rule, limiting the Court even further. "Where the Constitution was not an explicit bar, the Court should leave the resolution of economic and political conflicts to the Congress." But Waite's lack of art in giving expression to his opinions made them a source for the mechanical formulas by which later courts have confined legislative powers. In these essays is no wistful retrospection, no effort to create a picture of the "true" Constitution, drawn from history. Because, however, the ideas of Marshall, Taney, and Waite color judicial thinking today, some light thrown on their aims and purposes will indicate the extent to which "the pressures of the past" should find expression in constitutional law today.—E. S. WENGERT.

Widely held popular opinions are refuted by Julius W. Pratt's *Expansionists of 1898* (Johns Hopkins Press, pp. 393), a scholarly and well documented study of the expansionist movement at the turn of the century. Instead of being a surge of enthusiasm rising from the Cuban crisis, "imperialism" was a reflection of a world-wide development which had earlier manifested itself in the partition of Africa and in the writings of American and British publicists. The Harrison Administration had felt the impulse of the new "Manifest Destiny," with Blaine playing the leading rôle. There followed the halting, inconsistent programs concerning Hawaii of which the author presents the first adequate account. To this, half of the volume is devoted, showing the expansionist policies deeply rooted before the Cuban crisis. The latter half of the book upsets opinions widely held as to the supporters of the forward movement. The Mahan school, including Roosevelt and Lodge, were its ardent advocates from the beginning; but business men, exporters, Wall Street interests, the financial press, and investors in Cuba were opposed. The newspapers were divided in opinion. The author finds no basis for the popular belief that the Hearst-Pulitzer rivalry brought on the war. Still, the strong minority which knew what it wanted succeeded in pushing the country into the conflict. When it came, almost all of the groups in opposition adjusted their arguments and prepared to make the most of altered prospects. Newspapers and the technical and financial press generally welcomed the new opportunities. Business favored forward programs. Organized religion, which had been peculiarly unvoiced as the crisis approached, became enthusiastically expansionist. Churchmen will find the author's analysis of religious opinion of peculiar interest. The closing chapters analyze the hesitant progress of the Administration, pushed forward by the rising tide of public opinion in favor of making the most out of the war.—CHESTER LLOYD JONES.

In *Prisons and Beyond* (Macmillan Co., pp. 334), Sanford Bates, United States director of prisons, tells in very interesting fashion of the work of the nineteen institutions of correction which the national government has established since 1900. Convicts are sent to the prison that is best adapted to their rehabilitation; their individual problems are considered by a classification committee composed of the warden, deputy warden, director of social service, medical officer, psychiatrist, psychologist, educational supervisor, chaplain, superintendent of industries, chief of mechanical service, and parole officer. The value of careful parole supervision, as opposed to the popular view fostered by the newspapers, is stressed. Mr. Bates looks beyond the prison to discuss some alternatives to incarceration that might prove effective and reminds communities which tolerate the causes of crime that they must answer its challenge. The author speaks with authority, for he has been at work in this field for twenty years, beginning as Massachusetts commissioner of correction. College students in search of a career may find their interests aroused by this book, since prison work is offering a new profession.—JAMES HARGAN.

Writing for the layman rather than for the expert, in *Democracy and the Supreme Court* (University of Oklahoma Press, pp. 143), Robert K. Carr raises the question as to whether judicial review, exemplified by analyses of six outstanding New Deal decisions, is retarding the progressive evolution of American democratic government. He illustrates forcibly how judges may and do construe constitutional provisions just about as they please, and he emphasizes that a majority of the Court may arbitrarily nullify a statute which, to a minority of its members, and to the President and Congress, may seem perfectly constitutional. The "average citizen" is challenged with the proposition that our democracy would not crumble in ruins if the Court should lose its power to declare an act of Congress void. If the citizen responds to this challenge with even so much as an aroused suspicion that perhaps the members of the Court are neither oracles nor magicians, but only "nine very *human* beings," then this book is a valuable addition to the current literature of political science.—ALDEN L. POWELL.

In his *Fundamental Issues in the United States* (Oxford University Press, pp. 74), E. A. Radice presents a concise British analysis of the New Deal. The underlying principle is seen as security rather than freedom of enterprise—a natural reorientation because "the period of American expansion seems to be over." The American system is expected again to prove adaptable if the "rising and expanding elements" maintain control. Rather unimpressed by admitted constitutional obstacles, the author optimistically regards congressional powers of taxation and finance as adequate to the occasion. A chapter on administrative problems deals

ably with the spoils system and other aspects of party politics. Concerned over the budgetary problem, Mr. Radice advocates heavier federal income taxation of the moderately prosperous. Although this brief study occasionally suffers from the inexactitude necessitated by broad generalization, its conclusions are sound; and the detached viewpoint increases its value for American readers.—CARLTON C. RODEE.

The Civil Service in Modern Government (National Civil Service Reform League, pp. 58) has as its purpose "to describe the merit system in its theory and practice with enough brevity to make it available to a large number of readers." The purpose is accomplished admirably. The development and present status of merit in federal, state, and city civil services are stated briefly in the first part, consisting of twenty-six pages. The remaining thirty-two pages consist of an appendix, with eighteen very significant items. Among these are: "A Comprehensive Personnel Program"; "Outline of English Civil Service System"; "The Growth of the Federal Civil Service" (graph); "Classified and Unclassified Positions in the Federal Civil Service;" and "A Selected Bibliography." The pamphlet is primarily informational rather than critical or argumentative.—P. S. SIKES.

The fifth edition of Professor Robert E. Cushman's *Leading Constitutional Decisions* (F. S. Crofts and Co., pp. xiv, 487) differs from the fourth in including rather full printings of two further cases in which the Supreme Court has paid its respects to New Deal legislation. These are: (1) *United States v. Butler*, invalidating the A.A.A. and involving, as the author points out, the first analysis of the federal spending power ever made by the Court on the merits of the problem; and (2) *Carter v. Carter Coal Company*, invalidating the Guffey Coal Act and significantly criticizing the doctrine of inherent national power. Minority as well as majority views are represented in the extracts printed.

STATE AND LOCAL GOVERNMENT

Concerning the study of present-day liquor control entitled *After Repeal* (Harper and Brothers, pp. 296), by Leonard V. Harrison and Elizabeth Laine, Professor Luther Gulick points out in the introduction that its lessons of post-repeal experiences are rich for the administrator in whatever field he may be at work. Portrayed in the study are some forty states that are starting to function as independent laboratories in the administration of liquor legislation. Centralization is favored over decentralized administrative control; attempts are made to enforce provisions of liquor laws, the public becoming lethargic in supporting new liquor laws as in the case of old prohibition laws; business methods in the management of state stores leave much to be desired; the revenue motive

from the very beginning makes an indelible imprint on the administration of control; and the problem of control is largely attacked in part and not as a whole. As a realistic approach, the authors describe how the social control of liquor is gradually shifting to control to derive revenue. A few states are noted in which the social aspects of control are emphasized. The fourteen commonwealths which have established state stores have the most complex administrative problem and, on the whole, are doing little better in administration than the license states. The quality of membership of control bodies as well as of subordinate personnel is, on the whole, mediocre. Since broad administrative discretion is essential to the success of a program of liquor control, the need for good personnel should be emphasized. The inaptitude of state legislatures in providing the right type of personnel through proper pay, tenure, freedom from politics, and administrative organization is amply illustrated. The standards by which the authors judge the effectiveness of liquor control in the various states and by the federal government are principally those suggested by the 1933 inquiry *Toward Liquor Control* by Fosdick and Scott, of which Mr. Harrison and Miss Laine were two of the chief staff assistants. The appendices occupy an important place in the study—especially the digest of state liquor control systems. This latter might have been more detailed for the maximum usefulness of the book, in view of the brevity of treatment of some of these features in the body of the volume. However, the study will serve as a much needed introduction to the subject of administration of legislation pertaining to social control.—MILTON V. SMITH

•In an admirably organized and well documented study entitled *Unemployment Relief in Periods of Depression* (Russell Sage Foundation, pp. 384), Leah H. Feder surveys with considerable thoroughness the attempts made in certain cities of the United States to deal with unemployment relief during the years 1857–58, 1873–79, 1883–97, 1907–08, 1914–15, and 1920–22. Some readers will regret that the years beginning with 1929 have been omitted. Others may be disappointed that so much emphasis has been placed on cities of the East and Middle West. Miss Feder does not believe that sufficient perspective has been attained to justify including the recent depression. In an at least partially effective defense of concentration, mention is made of the significant industrialization of municipalities of the East and Middle West. Each period is discussed under such pertinent headings as Estimates of Unemployment, Emergency Measures, Work of Public and Private Agencies, Work Relief, and Public Works. The author concludes that “those responsible for unemployment relief in times of distress have so often concerned themselves solely with the immediate crisis and made no attempt to profit by earlier discoveries”—thus, breadlines, soup kitchens, and clothing centers, de-

spite severe criticism, have characterized period after period. Nevertheless, a "searching analysis will reveal a development of trends." Coöperation of effort to avoid duplication started feebly in 1873 but by 1914 had attained considerable status. Deep-seated distrust of the competency of public agencies persisted until well into the present century, but has very recently given way to a complete acceptance of the principle of public responsibility. In the administration of direct relief there has been an increasing interest in particular needs and a gradual abandonment of mass methods.—HAROLD ZINK.

Textbooks on American state government usually abound in the mechanics of government and administration at the expense of the dynamics. The difficulties of attempting to give a composite picture of the structural arrangements of the governments of forty-eight states, from the wealth of facts about them and the dearth of data as to how their governmental and political systems actually work, perhaps precludes any other treatment. Arthur W. Bromage's *State Government and Administration in the United States* (Harper and Brothers, pp. ix, 678) provides the usual bill of fare for introductory college courses brought up to date. Proper weight is given to all the important topics; the elementary facts are well selected; and newer developments are emphasized, including those in interstate coöperation and federal relationships. Constitutions, elections, parties, the executive, the legislature, and the courts are presented in the accepted fashion. One chapter each is devoted to state administrative organization, state personnel administration, state finance, state functional services, and state regulation of business and labor. Four chapters out of the total of twenty-four are given over to local government. Practical politics, which plays so large a part in our state and local governments, is treated in the usual conventional way, that is in terms of structural and procedural variations in elections, primary and convention organization, and executive committee set-ups. The fact that the two-party system is practically non-existent in many states, and that consequently factionalism and pressure politics produce at times what amounts to chaos in the legislature and the administration, receives very little attention. A fuller treatment of this and some other equally human and interesting topics would enliven some other textbooks on state and local government as well as the one under consideration.—O. DOUGLAS WEEKS.

Coöperative effort among American municipal governments was furthered by the problems growing out of the depression. The *Proceedings of the American Municipal Association, 1931-1935* (American Municipal Association, pp. xv, 828) presents a picture of the efforts made by cities in this period to meet their problems by coöperative effort. That there are municipal leagues in thirty-six states indicates that municipal officials

have realized that joint action is desirable in meeting municipal problems. These organizations are associations of municipalities rather than of their officers, and they perform a variety of services, among them the holding of annual conventions to discuss municipal problems, the publication of journals devoted to municipal administration, the formulation and promotion of legislative programs, and the operation of information services. The American Municipal Association is a federation of state leagues and represents an effort at coöperation on a national basis. The *Proceedings* contain some formal papers, but the greater part is given over to committee reports and informal discussion by the participants at the annual meetings. Some of the material included is of little value—addresses of welcome and speeches of introduction. The verbatim report of the informal discussion of committee reports and of municipal problems contains much valuable material, and will be of interest to all persons concerned with the administration and improvement of American local government. The advantages of coöperative effort on the part of cities, on both a state and a national basis, are apparent from a study of this record for the period 1931–35.—CHARLES M. KNEIER.

Mr. Dudley F. Pegrum's investigation of the policies of the California railroad commission in the handling of public utility security issues, presented in his *Regulation of Public Utility Security Issues in California* (University of California Press, pp. 71), is a worthy companion-piece to his earlier study, *Rate Theories and Policies of the California Commission*, published in 1932. It represents the same scholarly treatment and systematic documentation that appeared in the earlier study. It is a contribution to a rather limited body of literature dealing more or less intensively with the methods and practices of a state utility commission. Similar detailed investigations for other states are essential if valid generalizations are to be made concerning the regulation of utility properties in the United States. In his treatment of the control over procedures and practices of public utility security issues in California, Mr. Pegrum has thoroughly canvassed all phases of the problem, from the powers of the commission and the technical conditions imposed by it to consolidation proceedings and the jurisdiction over securities of companies engaged in interstate commerce. One cannot but be impressed by the logical consistency with which the California commission has interpreted its powers and in the course of time blocked up the gaps which have made possible many abuses in the issuance of securities. According to Mr. Pegrum's statement, the commission has succeeded in seeing to it that outstanding securities shall represent actual prudent investment. In doing this, the commission has withstood efforts to introduce inflationary factors through the application of the reproduction-cost-new theory of evaluation. In his

concluding section; Mr. Pegrum makes a number of constructive suggestions, many of which might well be taken to heart by a number of public service commissions. Among these, the following seem particularly noteworthy: (1) control over actual purchase price paid for one utility by another; (2) more positive control over consolidation and reorganization programs as well as "hybrid" and foreign corporations; (3) elimination of no par stock; (4) a breakdown of fair return with reference to the requirements for different classes of securities. This little volume can be studied advantageously by those interested in public utility regulation, since it gives a good account of the policies on the matter of security issues of one of the best and most progressive commissions in the United States.—WILLIAM E. MOSHER.

Dr. John P. Senning's monograph, *The One-House Legislature* (McGraw-Hill Book Co., pp. xviii, 118), appears at a most opportune time. Widespread popular interest in many other states makes his clear outline of the campaign for unicameralism in Nebraska a useful handbook for similar efforts. A foreword by Senator George W. Norris affirms his faith in the success of the new plan in his own state and expresses his conviction that a change in legislative structure is required by our modern civilization. Teachers and students of governmental institutions will find in this volume a concise summary of American and foreign experience with unicameralism and an account of the movement for legislative reform in the several states. The arguments for and against bicameral and unicameral bodies are marshalled and critically considered. In the final chapter, Dr. Senning outlines a number of suggestions for rules to safeguard the new Nebraska plan against the dangers predicted by its opponents. A comprehensive bibliography and appendices setting forth the Nebraska amendment and the redistricting plan adopted by the 1935 legislature conclude the volume. Such a book by the adviser to the legislative committees which prepared the legislation to implement the constitutional amendment is more than an academic monograph. It is an historical document which marks a milestone on the path of progress in adapting our governmental institutions to modern requirements.—HARVEY WALKER.

Township Organization in Missouri (University of Missouri Studies, Vol. XI, no. 4, pp. 70), by William L. Bradshaw and Milton Garrison, supplements an earlier study, *The Missouri County Court* by Professor Bradshaw, published in the same series in 1931. Since organized townships exist in only 24 of the 114 Missouri counties, the authors have had an unusual opportunity to present direct, first-hand comparisons, as well as an analysis of the history and structure of township organization. These objectives have been accomplished in a highly satisfactory manner,

thereby making a significant addition to the literature of local government. First authorized by optional statute in 1872, seven counties have adopted township organization since 1906, the latest in 1920. All of the counties having township organization are rural. Comparison of financial data of the two groups of rural counties shows that "township organization is relatively much more expensive than county organization," is "less efficient in the assessment of property for taxation," and is "about equally efficient in the collection of taxes." The township also is found to be less efficient in handling local road administration. Finding, further, that the township is unnecessary either for democracy or for convenience, the authors conclude that township organization should be abandoned. The study should be a valuable aid toward bringing about that result.—W. ROLLAND MADDOX.

Urban Local Government in Texas (University of Texas Publications, pp. xi, 357), by Roscoe C. Martin, is a thorough functional analysis of local government in five Texas counties: Harris (Houston), Dallas, Bexar (San Antonio), Tarrant (Fort Worth), and El Paso. These counties have within their boundaries a total of 285 governmental units, and are designated by the United States census of 1930 as metropolitan areas. The author states in his preface, however, that at present the local problems are urban rather than metropolitan. The book is not limited entirely to urban government, as attention is given also to special districts and counties. The study treats the following topics: the problem, finance (including records, reports, and research), public safety (including health and waste disposal), education and social services, public works, and trends. Thus it includes both "line" and "staff" functions. With each chapter, and also each part, there is an admirable conclusion containing criticisms and recommendations. The descriptive material is supplemented by forty-three tables. In the last chapter, Professor Martin proposes reorganization of each of the areas by making use of the county home rule amendment to the constitution to adopt an integrated system of administration. Certain functions of a metropolitan character should be transferred to the reorganized county. The study is well done, and the suggestions contained warrant serious consideration by the residents as well as the officials of the areas.—W. V. HOLLOWAY.

In their study, *Governmental Reform in Texas* (Arnold Foundation, Southern Methodist University, pp. 49), S. D. Myres, Jr., and J. Alton Burdine present a review of reforms which they consider necessary in the government of Texas. Other works of a more specific character and more comprehensive in scope are frequently cited, and an excellent summary of proposed reforms appears in the last few pages. The executive, judicial, and legislative departments are considered first, and surveys of

local government and of the Texas constitution follow. The study appears to have been written primarily for the layman, to interest him in his state and local government, and to point out weaknesses in the system. But so much interesting and valuable material is presented that the work should prove of considerable value also to political scientists and public officials, and of other states as well as of Texas.—R. L. CARLETON.

Since any acceptable basis for state aid to public education calls for a reliable measure of local taxpaying ability, and since assessed value of property is recognized as a very faulty measure, school and tax authorities would welcome the discovery of an ability index based on readily obtainable economic data. They will therefore be interested in a study by Francis G. Cornell entitled *A Measure of Taxpaying Ability of Local School Administrative Units* (Bureau of Publications, Teachers College, Columbia University, pp. 114). Taking the counties of New York as units of comparison, the author succeeded in devising an ability index which correlated more closely with true value of property than did assessed value. The formula was obtained by properly weighting eight economic factors—population, retail sales, automobile registrations, number of income tax returns, etc. The author is careful to point out that the index is still imperfect and that the test was too limited to be conclusive. Nevertheless, the search for such a formula is commendable and should be pursued farther.—PAUL W. WAGER.

Blake McKelvey's *American Prisons; A Study of American Social History Prior to 1915* (University of Chicago Press, pp. xix, 233) is a brief sketch of the development of prisons in the United States. The only other book in existence covering similar ground, but stopping short at 1845, is O. F. Lewis' *The Development of American Prisons and Prison Customs from 1776-1845*. McKelvey's book supplements Lewis' by carrying on the history for another seventy years. The volume is written in an easy style and clearly states the main points in the development. The author has done a particularly good job in delineating the development of penal and correctional measures in the Southern states. He has also made a contribution in pointing out the psychological ebb and flow in penological theories during the last hundred years. The chief defects of the book are due largely to the fact that it is a mere outline. This leads the author to make somewhat general statements for which he provides no historical evidence. While the bibliographical notes at the end of each chapter cite most of the important literature, it is unfortunate that for some of his broad statements Mr. McKelvey gives no direct references. A few errors of fact might have been avoided by more careful checking.—JOHN L. GILLIN.

June Purcell Guild's *Black Laws of Virginia* (Whittet and Shepperson, pp. 249) traces the legal status of Negroes in Virginia from the earliest legal records through the present acts of the general assembly. The laws are arranged chronologically and topically under ten chapter headings. The arrangement and the author's brushing up of legal verbiage add to the volume's readability. Its interest lies largely in the attitudes toward racial and social problems which the law often reflects. The volume shows the progress made in lifting the Negroes' legal disabilities. To be sure, legal inequalities still exist, but the author attributes these, not to the substance of the law, but to its administration. She believes that much of the Negroes' sorry economic condition is the "result of white aggression and white discrimination." The author, however, makes few comments; she rarely draws general conclusions, seeing no need to do so, because "the laws speak eloquently for themselves." The volume's importance would have been enhanced by brief annotations of the judicial decisions that bear on the laws summarized.—JAMES E. PATE.

New York Advancing (New York Municipal Reference Library, pp. 368), edited by Rebecca S. Rankin, is an interim report of the work of the Fusion Administration of New York City under the direction of Mayor F. H. LaGuardia. It is presented in eleven chapters dealing with administration, finance, public works, taxation, education and recreation, legal protection, protection of life and property, miscellaneous staff agencies, emergency relief, and charter revision. Achievements are discussed with reference to objective standards, where available, and in their absence by comparison with the records of the preceding government, while some attention is given also to failures, in some cases due to lack of cooperation.—JOHN A. FAIRLIE.

Anyone who has attempted to collect official papers of the forty-eight states will appreciate the compilation of materials contained in *Official Publications Relating to American State Constitutional Conventions* (H. W. Wilson Co., pp. 91). This is a planographed bibliography compiled by the document section of the University of Chicago Libraries listing "officially published material" by states. The publication is also "essentially a union list of holdings for all the libraries in Chicago, for the Library of Congress, and for the New York Public Library." Other libraries are listed only if they hold some unique local material.—C. I. WINSLOW.

FOREIGN AND COMPARATIVE GOVERNMENT

The National Government, says Mr. Ramsay Muir in the preface to his *The Record of the National Government* (Allen and Unwin, Ltd., pp. 204) is "the worst, the weakest, the most timorous, and the most incompetent government that Britain has known since the days of Lord North."

One is reminded of that more-than-usually celebrated cartoon of Low, published about a year ago, called "Missing the Bus," in which a forlorn person labelled "National Government" is seen standing at a deserted street corner reading a sign which says "Next Bus: After the War." Though the reviewer himself feels considerable sympathy with the views of Mr. Low and Mr. Muir, he must point out that the volume at hand, like many of Low's cartoons, is to be taken rather as a piece of partisan propaganda than as an example of that sort of impartial history (e.g., the *Short History of the British Commonwealth*) which Mr. Muir wrote some years ago. Today, Mr. Muir writes as the apologist of the Liberal party, in which he has long held high position, and this volume is a successor to *Peers and Bureaucrats* (1910), which attacked the irresponsibility of the House of Lords and of the government departments, and *How England is Governed* (1930), which with merciless eloquence castigated the civil service and the electoral system. The reader who bears in mind this word of caution will find *The Record of the National Government* not only readable but informative to a high degree. Mr. Muir begins with the story of the financial difficulties in which the country had begun to be involved long before 1931, shows how the first National Government rested on a sound basis of general coöperation in a crisis, and then traces the growing dominance of the Conservative leaders through the election of 1931 and the imposition of tariffs contrary to the will of the Liberal supporters of the government. Then he analyzes the work of the second National Government by major topics. He examines its handling of national finance and its "principal achievement," the "introduction of a system of Protection," with a separate chapter on the Ottawa Agreements. Other chapters summarize its attempts to relieve the problem of unemployment and the situation of agriculture. In a final chapter, the author surveys the National Government's foreign policy. Contemporary history is the hardest of all to write, and few are interested in writing it. Some prejudice can be excused the performer of a rare accomplishment. Mr. Muir has put together the story of the policies and accomplishments of the English cabinets that have ruled since 1931; he has made the story intelligible and interesting. Although supporters of the National Government can challenge his interpretations, they can hardly challenge the accuracy of his facts.—E. P. CHASE.

The Life of Emmeline Pankhurst (Houghton Mifflin Co., pp. 180), by her daughter E. Sylvia Pankhurst, is a chronological biography of the militant feminist. It presents also a fair picture of English political party attitudes in the great parliamentary reform era, 1880-1918. Emmeline Goulden Pankhurst, 1858-1928, was by heredity, background, and temperament a militant. She sprang from a long line of fighters; her paternal

grandfather narrowly missed death in the franchise demonstration in Manchester in 1819, and her grandmother was a member of Cobden's famous Anti-Corn Law League. Emmeline's young mind was early disposed to rebellion, when the restrictions, then prevalent against her sex, impeded her activities. She lived in a period of great struggle for constitutional liberty in which her parents took part, and she grew up in Manchester, which was the center of the women's emancipation movement. Her entry into politics occurred as early as 1879, and from that time her life became a series of battles for the emancipation of women. Her position as registrar of births and deaths brought her into contact with many unfortunate women, whose stories of wretchedness excited her wrath and pity, sharpened her sense of social justice, and served to feed her zeal. Between 1908 and 1914, she was in and out of prison because of her militant activities in the suffrage cause. She was a true zealot, willing to suffer the extremes of bodily discomfort for her cause, which she considered greater than herself, her family, or any other person; no matter how exalted his position in party or state. This story of her life presents nothing startlingly new, but it does give a personal view of a great woman by one who knew her intimately as daughter and aide.—ELIZABETH WEBER.

James Bunyan's *Intervention, Civil War, and Communism in Russia, April-December, 1918* (Johns Hopkins Press, pp. ix, 594) is the third volume of documents bearing on the Russian revolution, following chronologically Frank Golder's *Documents of the Russian Revolution, 1914-1917*, and Bunyan and Fisher's *The Bolshevik Revolution, 1917-1918*. The first two were brought out by the Hoover War Library (Stanford University). This latest work follows closely the method and format established by its immediate predecessor—an elaborate table of contents, an extensive bibliography, a chronological table, and an index. The general scheme of division is: three chapters to the rival interventions of the Central and Allied Powers, three to the Civil War, and the remaining four to newly created revolutionary institutions, with a final chapter of *varia* called "Sidelights of the Russian Scene." Each section of documents is prefaced with a condensed summary which gives continuity to the narrative of events by documents. Especially interesting are excerpts showing Lenin's attitude toward the Cheka, the early, futile attempts to control that powerful organization, and selections from the extremely rare report by Latsis on the work of the Cheka. The following famous statement by Latsis (p. 261) is taken from the *Pravda*, December 25, 1918: "Do not ask for incriminating evidence to prove that the prisoner opposed the Soviet either by arms or by word. Your first duty is to ask him what class he belongs to, what were his origins, education, and occupation. These

questions should decide the fate of the prisoner. This is the meaning and essence of Red Terror." (Items such as this make strange reading in 1937, when Bolshevik policy, as expressed in the new constitution, presumes to disregard class origin utterly for a new method of selecting the leadership for the country on the basis of talent, merit, and efficiency.) Also of compelling interest, because of current significance, are documents indicating the Bolshevik attitude in 1918 toward the Red Army, world revolution, the constitution of RSFSR, moneyless economy, etc. To the student of the Russian revolution, this volume by Mr. Bunyan is very welcome, revealing many details hitherto obscure. One might well wish for additional information as to the exact geographical location of so many valuable Russian documents, to which the average student cannot obtain access—even in Moscow. It has been supposed that the Hoover War Library is the only depository in America of many of these materials; it would be valuable to students to know of other treasures, perhaps closer to hand. Apparently Mr. Bunyan made considerable use of the materials in the Hoover War Library, which, in an earlier volume, announced the intention to include in its series documents of the period covered by Mr. Bunyan's present work. Since there is no announcement that the Stanford project has been abandoned, it may be assumed that this period will be the subject of another volume in the Hoover series.—BRUCE HOPPER.

Harold R. Weinstein's *Jean Jaurès* (Columbia University Press, pp. 200) does not purport to be a full-length portrait of its subject. It concentrates, perhaps wisely, on certain aspects of Jaurès' political career—in particular, his attitudes bearing on the socialist doctrine in relation to the internal class struggle and to foreign policy and war. The study, which is well documented and interestingly written, though in the traditional vein, tells the story of Jaurès' shift from bourgeois Jacobinism to bourgeois socialism, and of his struggle in behalf of "revisionist" and "patriotic" Marxism against extreme class-conflict doctrines on the left and chauvinism on the right. The author makes a good case for his statement that "the assassination of Jaurès was an ironic tragedy," and the point is stressed throughout that considerations of patriotism and social welfare were dominant in the leader's life. Strongly imbued with the Revolutionary tradition of patriotism, and with an almost mystical concept of the "nation," Jaurès had been driven into socialism in the early nineties not merely because of his fears of "the financial oligarchy," but also because of his belief in "La République Sociale," and his conviction that "socialism was the progeny of the Revolution." But it would have been a French socialism, a genuine democratic collectivism, rather than an international socialism based on the class conflict. He would have

stoutly defended the Republic against external attack, and, during the crucial week preceding the outbreak of the world holocaust, and only two days before his assassination, he was able to say at an international socialist conference that the French government not only desired peace, but was pursuing it. The concise chapters on revolutionary syndicalism and the conflict within the Unified Socialist party are of special value.—G. BERNARD NOBLE.

The *China Year Book*, 1936 (North China Daily News, Shanghai; American agents, the University of Chicago Press, pp. xxiv, 511), is the eighteenth issue of an indispensable compendium of statistical and historical data. Begun in 1912, it has appeared at varying intervals—annually since 1930—throughout the whole period of the Republic, and always under the editorship of H. G. W. Woodhead. The current volume brings the record to September 7, 1936. By condensing the historical materials, omitting official documents hitherto published, and including fewer new documents, the editor has found space for four additional chapters—on Kuomintang sessions, public health, the National Economic Council, and the cinema—and has been enabled to employ larger type. The wide scope of former issues is maintained, exhibited in such titles as "Who's Who," education, river conservancy, government, international relations, labor, and religions, in addition to statistics of foreign trade, banking, public finance, etc. Authoritative contributors from outside the editorial staff continue to lend distinction to the book.—HAROLD S. QUITLEY.

Volume 23 of the *Jahrbuch des öffentlichen Rechts der Gegenwart* for the year 1936 contains two articles on "Recent Constitutional Developments in France" by Professor René Capitant, of the University of Strasbourg, and Dr. Karl Braunias, of the University of Vienna; an article on "Administrative Law in Russia Since 1917" by N. Karadshe-Iskrow; one on "Constitutional Law in Czechoslovakia, 1929-1939," by Dr. Fritz Sander, of the German University in Prague; an article on the "Present Position of Federalism in the United States" by Professor Carl J. Friedrich and Dr. Wolfgang Kraus, of Harvard University; and one on "The Constitution of the Kingdom of Siam" by Prakob Hutasingha.

It is a pleasant duty once a year to chronicle the appearance of a new edition of *Political Handbook of the World*, edited by Walter H. Mallory and published by Harper and Brothers for the Council on Foreign Relations. The current edition (pp. 207) presents, in the usual convenient form, full and carefully authenticated information concerning parliaments, parties, and press throughout the world as of January 1, 1937.

INTERNATIONAL LAW AND RELATIONS

David Mitrany's *The Effect of the War in Southeastern Europe* (Yale University Press, pp. xiii, 282) is an excellent survey and summary based primarily on the volumes dealing with this section of Europe which have appeared in the Carnegie Endowment's *Economic and Social History of the World War*. The emphasis is on economic factors, with less attention to what might perhaps narrowly be termed the sociological and cultural aspects. The old Austria-Hungary affords the majority of the material, and the many efforts made toward the establishment of economic unity among the Hapsburg dominions are outlined historically. No sooner had the customs union between Austria and Hungary been concluded in 1850 than it was dissipated by the Ausgleich of 1867. The constant struggle for economic privilege between the dual governments and among the multitude of nationalities turned economic unity in practice into a "ghostly fiction," even before the war began. The war plans, here as elsewhere, were very complete for a military aspect, but inadequate as to economic organization. The many instruments of war government—the famous Centrals—worked autocratically, but in spite of many clashes between civil and army authorities made a creditable record. The progressive difficulties of the war years are pictured, although one would welcome a more specific treatment of the ever tightening blockade. Tribute is paid to the remarkable efficiency of the old bureaucracy which made it possible for Austria-Hungary to fall apart one day and start working as new succession states the next. The peace treaties receive no fashionable blanket condemnation, although they are surveyed critically. The "feat of welding the conglomerate of Danubian peoples into a political and economic unity without oppressing their national individualities"—the problem "which had baffled and in the end defeated the Hapsburgs—still remains with Europe." In an appendix the author considers the Turkish-Greek exchange of populations and concludes that a similar plan would be no solution for Southeastern Europe.—E. C. HELMREICH.

Dr. Gerhard Schacher's *Central Europe and the Western World* (Henry Holt and Co., pp. iv, 224) is a translation of a book published at Prague in 1936 under the title of *Mitteleuropa und die Westliche Welt*. Within its modest bounds is compressed a thoughtful and lucid exposition of the economic, and to some extent the political, situation in the area with which it deals—an area which the author rightly describes as having become, apart from the Far East, "the most dangerous center of crisis in the world." Seven chapters are devoted specifically to economic matters. In discussing such topics, too, as the Little Entente, the Rome pacts, the Anschluss, and Hungarian revisionism, the author gives evidence of substantial agreement with Walter Rathenau's famous aphorism, "econom-

ics is fate." Sundry developments of the past few years have encouraged observers to believe that the Balkan states in particular are slowly working out a better international order for themselves, with some chance of ultimate success if only the Great Powers will have the good sense (which they probably will not) to keep hands off. Dr. Schacher, however, is not very optimistic; sooner or later, he contends, "the decision will have to be taken to make a clean sweep of the inflammable material." How such an end can be attained without igniting the tinder in the process, he fails to disclose; although it is only fair to say that the task to which he addresses himself in the present book does not extend much beyond the diagnosis of existing ills.—F.A.O.

Together with the original volume, published in 1926, the *Supplement to the Law and Procedure of International Tribunals* (Stanford University Press, pp. 211), by Jackson H. Ralston, covers the law as developed by international tribunals from 1910 to date. The two volumes are organized similarly and use the same paragraph numbering, so that a topic may be followed easily through both. Together, they make a most useful handbook on the jurisdiction, procedure, and law applied by arbitration commissions and other international tribunals. During the period 1926-36 covered by the Supplement, the Permanent Court of International Justice, the various Mexican Claims Commissions, and the arbitral judges of claims between Spain and Great Britain and between the United States and the former Central Powers have added much to the source material. The work of the Permanent Court has been included through the Chinn case, No. 63 in the Combined Series, and has been cited extensively. New subjects appear, such as the status of treaties not registered with the League of Nations, the rights of third states under treaties, rules governing oral evidence, and problems of foreign exchange in meeting claims. Much new material is given on such subjects as the Calvo clause, rules governing succession to claims and administrative decisions, *uti possidetis juris*, prescription, and the variable standards determining denial of justice. In the last field, the author points out the unfortunate practice of holding states liable to claimants for damages when insufficient punishment has been meted out to offenders against such claimants, thus giving them a vested right in the proper administration of justice. Like the original work, this Supplement is invaluable for reference.—HAROLD J. TOBIN.

For students of the peace movement, a recent book of the well-known pacifist Barthélemy de Ligt, *La Paix créatrice; Histoire des principes et des tactiques de l'action directe contre la guerre* (Paris, Marcel Rivière, pp. 536), will be a welcome contribution. The moral force doctrine, the direct action, individual and collective, against war, has never been

treated so comprehensively as in this book. From every epoch and from all parts of the world, the author has collected movements and theories which have in common the belief that only the moral or religious revolt of enlightened individuals or groups can conquer the time-old menace of war. The picture drawn by the author is, however, purely descriptive, containing without doubt many important and significant data, but lacking an inner system or an historical-sociological explanation of the doctrines or facts treated. It is rather a catalogue than a scientific approach to the problem. Fortunately, in a preliminary chapter, Mr. de Ligt gives his personal attitude toward the problem, which contains interesting suggestions, before all that the pacifistic *action directe* should be construed not as passive resistance but as a purposive awakening and organization of moral energies, "the fight of the free personality against militarist slavery." His polemics against socialist and bolshevik pacifism are interesting.—OSCAR JÁSZI.

World Trade and Its Future (University of Pennsylvania Press, pp. 101) embodies five lectures delivered at Swarthmore College in 1936 by Sir Arthur Salter. The first three lectures sketch the significant facts of world trade prior to the World War, following the War, and during the Great Depression. These facts, while oft-repeated, are presented here in bold outline and with unusual clarity. The fourth lecture is devoted to a discussion of the economic factors in the present situation which are likely to influence and determine the course of future world trade. These factors are: the downward trend of population in the Western nations; the unstabilized currency situation; the recent course of foreign investments; the existence of tariffs, quotas, and exchange restrictions. On the basis of his analysis of the above factors, Salter recommends the adoption of a number of policies which he believes would result in the growth and stability of international trade. These include (1) coöperative action to stabilize exchange rates through the use of stabilization funds; (2) coöperation between central banks to maintain "a reasonable stability in the general level of gold prices"; (3) establishment of tariffs on the basis of a unified national program; and (4) expansion of world trade through a series of bilateral and multilateral trade treaties. There need be little doubt that the author's proposals would expand and give greater stability to world trade. His program, however, calls for national leadership and international coöperation which in the present dark hour do not exist.—NATHAN L. SILVERSTEIN.

In *Justice and Equity in the International Sphere* (Constable and Co., pp. 59), Professors Norman Bentwich of the Hebrew University of Jerusalem, Gustav Radbruch of Heidelberg, H. A. Smith of the University of London, Antonio S. de Bustamante of Habana University, and Donald

A. Maclean of the Catholic University of America contribute brief essays on the philosophical, historical, legal, and moral aspects of the subject. The first essay, by Professor Radbruch, is a philosophical-legal discussion and evaluation of the idea of equity, especially in relation to the proposal of the New Commonwealth Institute of Research for an equity tribunal. He concludes: "An equity tribunal can only come into being when, on the one hand, judges can be found who will without hesitation subordinate the interests even of their own nation to the common good of the world, and when, on the other, an international mind has developed in every community which will support, echo, and authorize such decisions" (p. 13). Professors Smith and Bentwich contribute essays on "interstate disputes in the American Supreme Court" and "The Jurisdiction of the Judicial Committee of the Privy Council." Judge de Bustamente, whose essay is entitled "The First Court of International Justice and the Cause of its Dissolution," deals with the history of the Central American Court of Justice. The concluding essay by the Reverend Maclean is concerned with "International Justice and Equity from the Christian Point of View."—FRANK M. RUSSELL.

In *The League of Nations and World Order* (Constable and Co. Ltd., pp. 191), Georg Schwarzenberger studies the principles of universality in the theory and practice of the League of Nations. Brief preliminary chapters sketch the "imperial universality" of Rome, the "theoretical universality" of the medieval church, and the newer conception of "co-operative universality" based upon a system of independent national states. In the light of his study, the author raises the question "whether the world has integrated sufficiently today to permit the assumption that a comprehensive and world-wide system of states already exists" (p. 175). He is convinced, however, that this integration must be realized before peace can be attained, for space-annihilating inventions have made it impossible to achieve a peaceful world by way of regional and continental peace systems. If a collective will is absent, upon what driving forces may a universal peace system be based? Principally fear, and perhaps to some extent shame. These, however, are not enough. Any collective system which the nations will be willing to endow with sufficient power to meet a common danger must be above favoring the interest of any particular state or states. Therefore it not only should be equipped with machinery for prevention of war and the maintenance of the *status quo*, but should be provided also with adequate means for bringing about peaceful change.—FRANK M. RUSSELL.

The second revised edition of Harold M. Vinacke's well known *A History of the Far East in Modern Times* (F. S. Crofts and Co., pp. xiv, 556) differs from its predecessor, published in 1933, mainly in the rewriting

of what was formerly the concluding chapter and the addition of a new fifty-page chapter, "The New Far East," dealing with developments in 1933-36. By the "new" Far East, the author means chiefly the Sino-Japanese world as transformed by the Japanese military operations on the mainland since 1931; and his chapter is devoted to a very good analysis of the nature and significance of those operations, together with discussion of such vital matters as non-Japanese foreign rights in Manchoukuo, the Mongolian question, and the future of the Philippines. What has happened on the various Far Eastern sectors, and with what possible consequences, one will find indicated briefly and clearly; if it is prophecy that one is after, other and less cautious writers will have to be consulted.—F.A.O.

The *Soviet Union and the Cause of Peace* (New York: International Publishers, pp. vi, 191) is a convenient and attractive volume of anti-Fascist and pro-Soviet propaganda. Stating openly in their preface that Japan and Germany are the most threatening "war-mongers" and that the hope of peace lies in the U.S.S.R., the editors have brought together selected writings and addresses on international relations by Lenin, Stalin, Molotov, Voroshilov, Tukhachevsky, and Litvinov. These cover a span of about eighteen years from the time of the November revolution. There is no attempt at completeness in the collection of the papers of each man, nor is there any summary or analysis of Soviet policy in practice. A concluding section of about twenty pages incorporates some recent Soviet agreements of non-aggression (Rumania, 1933) and mutual assistance (France, 1935; Czechoslovakia, 1935; Mongolia, 1936).—WALTER H. C. LAVES.

The seventh volume of the *Diplomatic Correspondence of the United States: Inter-American Affairs, 1831-1860* (Washington: Carnegie Endowment for International Peace, pp. 485), deals exclusively with Great Britain and Anglo-American interests in Latin America. The Texas question, the inadequacies of the Clayton-Bulwer treaty, the vigorous protests against British efforts to secure a foothold on the Mosquito coast, the American desire for Cuba, and the complicated problems of filibustering in the Central American states constituted the main matters of diplomatic concern. Some of the ablest Americans of the day, ranging from Martin Van Buren to James Buchanan, George Bancroft, Abbott Lawrence, and Edward Everett, occupied the American Legation in London and constituted, for the most part, worthy antagonists for Lord Palmerston. Like its predecessors, this volume's adequate index, thorough annotation, and intelligent selection of material bear testimony to Editor William R. Manning's competent scholarship.—W. B. HESSELTINE.

POLITICAL THEORY AND MISCELLANEOUS

Can we plan society economically within the framework of our traditional civil liberties? Such is the question raised by George Soule in *The Future of Liberty* (Macmillan Co., pp. 187). Our current conflict between loyalty to traditions and the necessity of social change is described, but the author comes to the conclusion that a rejuvenated liberty can be attained under a planned economy of abundance. A negative, non-interference theory of liberty, such as presented by John Stuart Mill, has little reality when it is applied to the modern American citizen. Restrictions on the liberty of predatory groups, according to this volume, cannot be deemed a destruction of the liberty of those who are working for a common social purpose. In effect, the liberty of property-owners, which Mr. Soule includes in the traditional enumeration of civil liberties, may be subject to sharp restriction, or even destruction, without entailing a like treatment of the substantial freedom of the masses. Thus the future of liberty is bright under socialism, while it is amply dark as the situation stands at present. One of the primary values of this work, however, is that the author has ably summarized the story of the rise of the Liberty League and other similar groups. He has thrown a merciless light of criticism on the limited mentality and understanding of certain leaders who have tried to influence Congress against the public regulation of industry. Basically, the book stands for the proposition that any solution other than a genuinely planned economy will fall short of the mark. Indeed, it would be easier, according to the author, to inaugurate socialism than to reestablish a free, competitive economy (p. 125). The imaged and detailed picture of this new society is inviting, but Mr. Soule's critics may wonder whether liberty will be like that of our traditional system if "what we ought to fear most of all is the violence and dictatorship that are likely to be applied by the rulers of the existing society in their extremity, if they come to be seriously threatened" (p. 180).—FRANCIS G. WILSON.

The claim has been advanced that the so-called racial legislation (*Rassengesetzgebung*) in Germany finds support and even justification elsewhere, particularly in the United States. This dictum determines the objective and method of a recent publication *Das Rassenrecht in den Vereinigten Staaten*, by Heinrich Krieger (in the series *Neue Deutsche Forschungen*, Junker und Dünhaupt Verlag, Berlin, pp. 361), which is asserted to be the first comprehensive presentation of legislation affecting racial relationships in this country. The work as a whole is appropriately organized, and its bibliography may prove valuable for American readers. The chapters dealing with racial discrimination in the several fields of legislation (including the constitutional amendments and pertinent decisions on the

emancipation of the Negro, and concerning the American Indian, immigration and citizenship, interracial marriage, civil rights, education, due process of law, and suffrage) are well written. The development and actual legal status of racial minorities are described clearly, and the accompanying statistics and tables are significant and based on good authority. No doubt, however, the fundamental preconception of the author mars the value of the enterprise. Contradictions arise from prejudice, as for instance when an economic and political ability "dangerous" in competition with the white man is ascribed to the Negro (p. 340), whereas in earlier parts of the book the latter's "inferior racial character" is cited and this without any further definition. Likewise, an "elementary racial feeling" is alleged to be the underlying impetus of the most essential legislation in the United States, while it is evidently not powerful enough to break the strength of the assumedly futile "ideology of equality." A rather arbitrary interpretation is noticeable also with regard to the latest developments in legislation concerning the American Indian (act of June 18, 1934). Notwithstanding the author's doubts as to whether a final settlement can be achieved on this basis, it should not be denied that in the voluntary character of coöperation therein envisaged lies a recognition of established principles. Moreover, the fact that the individual Indian is permitted to give up his connection with his tribe and become subject to ordinary law distinguishes this measure sharply from compulsory restrictive legislation such as has been enacted in Germany. The author minimizes unduly the significance of power-relationships which result from economic and social conditions. For to both racial irrationalism and racial egalitarianism applies the statement that they are only partly stationary doctrinal concepts, and partly also a matter of social arrangements. That there is an evolutionary trend toward conformity with the changes in social views and structure, even the author admits. The facts warrant the conclusion that in America racial dogmatism, with its concomitant inequalities and injustices, is constantly subjected to a corrective process which is reflected in legislation and the administration of the law. The polemic against the idea of equality (p. 315 ff.) and in favor of a reactionary interpretation of the due process clause seems to miss the point. ("Due process of law" is rendered by the much less distinct *Billigkeit*, which may be responsible for some inadequacies.) For the author fails to recognize that equality is above all a moral concept, and that as such it may be expected to continue as the directing standard—in spite of occasional deviations—for future legal developments as well. Thus it would remain true that the doctrine of natural rights (equality), like Christianity, "will probably have to be absorbed, rather than destroyed, by a new ideology" (Crane Brinton). At any rate, the thesis that would make the problems of American law-

making throughout appear in the light of racial antagonism, and even forecast their issue in a growing race struggle, with a rigid code of racial law as the final outcome, is unsupported by actualities.—H. P. JORDAN.

Present political problems, enthusiasms, and discontents keep the memory of Baron vom Stein alive among Germans and non-Germans alike. This latest study bears eloquent witness to such persistent pre-occupation. In *Napoleon's Nemesis: The Life of Baron Stein* (Charles Scribner's Sons, pp. 306), Constantin de Grunwald, a Russian writer who describes himself as a friend and guest of France, gives a new portrayal of the great reformer "as he was, typical and representative of the Teutonic race, with its qualities and defects, standard-bearer of the imperial and national Germanic idea—a man of the sequence Luther-Bismarck-Hitler" (p. 12). The book, which was originally published in France (and has been ably translated from the French by C. F. Atkinson), was intended to fill a gap in the French literature on the period. But it will doubtless prove of some value also to those dependent on the literature available in English. The political scientist primarily interested in the administrative and social reforms connected with Stein's name will still have to rely primarily on Professor Ford's scholarly volume and on Seeley's older monumental and loosely-knit tomes. Grunwald has had the advantage of utilizing two most important contributions of German research which were not available to Professor Ford: M. G. Ritter's "definitive" biography and E. Botzenhart's edition of Stein's correspondence and memoranda. This study may be described as a sound biography, popular in the best sense. While only one chapter is devoted to the great reforms, the accent is placed on the unfolding of the administrator's and statesman's personality throughout a critical period of German and European history. In the end, he emerges as one of the forerunners of that German statecraft and political emotion which have gone into the making of the Third Reich. Despite the general validity of the thesis, some caution might be urged in view of Stein's firmly Christian mold. There is a very adequate bibliography in the volume which helps to supplement that of Count Montgelas in his article in the *Encyclopaedia of the Social Sciences*. No doubt the book will prove stimulating and suggestive to those, for instance, who care to be reminded that, according to a good deal of historical evidence, successful administrative reform is hardly a matter of purely technical concern.—WOLFGANG H. KRAUS.

The American Problem of Government (F. S. Crofts and Co., pp. ix, 701) is a revised edition of a book by Chester C. Maxey published originally in 1925. The number of pages has been increased from 497 to 701, but the number of chapters reduced from forty-six to twenty-seven. The revision seems, however, to have proceeded unevenly. The discussion of

state legislatures was written before Nebraska's adoption of the unicameral system, and an early chapter refers to the Philippines as an unincorporated territory, while other chapters trace the New Deal through the summer of 1936 and describe the new Philippine Commonwealth. Whatever we may think of the book, we must admire the author's courage in attempting to encompass all the social sciences in one volume. He bestrides the fields of history, sociology, and politics like an academic colossus. Though concerned primarily with the United States, there is scarcely a governmental system, ancient or modern, that escapes his attention. Through time and space he stalks, in seven-league boots, from the dawn of history to the New Deal, and from the Orient to the Occident. Inevitably, a few errors have crept in. We are told that impeachment of judges "requires a two-thirds vote in both houses," and that the number of units of government in the United States is "at a minimum 50,000," whereas Anderson's study lists 175,418, and the Bureau of the Census reports 194,632. Professor Maxey has a remarkable vocabulary and a journalistic literary style. He is usually objective, but is occasionally dogmatic on moot questions; thus, our system of checks and balances "has won the reputation, both at home and abroad, of being one of the most successful systems of government on earth," and judicial review is "the most stabilizing force in the American governmental process." The book will be found useful in survey courses which attempt to present the whole panorama of political institutions and problems in one or two semesters.—ROGER V. SHUMATE.

In his *Sam Adams, Pioneer in Propaganda* (Little, Brown, and Co., pp. 437), John C. Miller has thrown valuable light, not only on the part played by Samuel Adams, but also on the problems, events, and accomplishments on the road to free and effective government in that great formative period of American history in which Samuel Adams played a leading part. He has made careful use of source materials from which he has pieced together significant details of the history of the period. The book is well written, thought-provoking, and exceedingly interesting. In it, we see Samuel Adams as a radical propagandist carrying on relentless war, first in Massachusetts, and later in other colonies and in the Continental Congress, against the British government. We see him neither asking nor giving quarter, constantly and courageously striving to kindle and keep alive the flame of rebellion against the mother country, winning converts by appeals to prejudices rather than by appeals to reason, and using conspiracy, intrigue, and even violence, when in his opinion necessary or desirable in order to attain the ends sought. The author makes it clear that while Adams was a radical in the struggle against England, he was, even then, quite reactionary in other matters, such as religion,

and that all elements of liberalism left him, at least temporarily, before the adoption of the American constitution and the outbreak of the French Revolution. On the whole, the author has done a good piece of work, involving research over a considerable period. He might, however, have presented his material much more concisely.—DANIEL B. CARROLL.

The first half of Whitehead's *Leadership in a Free Society* (Harvard University Press, pp. 259) is a significant continuation of the analysis of impediments to industrial morale to which Elton Mayo called attention in his *Human Problems in an Industrial Civilization*. Like that study, it makes use of social-psychological insights in examining industrial administration. The most significant new data for this book are furnished by researches carried on by the Western Electric Company. This kind of analysis suggests a whole new area of study for researchers in public administration. The fact that Whitehead and Mayo have taken their data from private industry does not rob their hypotheses of significance for personnel problems in public administration. The last half of the book includes a number of chapters devoted to important aspects of political theory, but makes no significant contribution. The basic philosophy, despite a sensitive humanitarianism shown throughout the book, is a kind of Burckian historical conservatism, modified by a Rotarian hope that "the business man" will come to see his true responsibility to become the leader of a "free society."—CHARLES MCKINLEY.

In his *Manual of American Government* (Burgess Publishing Co., pp. 122, mimeoprint), Paul C. Bartholomew has undertaken the difficult task of applying the hand-book idea to the subject of American government. The result is a well organized volume, convenient to use, which serves both as an outline and as a rather full digest of the subject. Its outstanding feature is the summarizing of content to such a degree as to leave both the instructor and the student free for wide use of lecture and collateral material. By stripping the subject of all verbiage and illustration, the author has been able to present a surprising proportion of the essentials of American government within the confines of 122 pages. The treatment of subject-matter and the apportionment of material are according to the orthodox plan.—GILBERT G. LENTZ.

German-Americans during the years of neutrality had the difficult task of defending the Central Powers against the antagonistic American press. Later, in the midst of a suspicious and oftentimes hostile population, they had to wage war against their homeland. Professor Carl Wittke's *German-Americans and the World War* (Ohio State Archaeological and Historical Society, pp. 223) is an able study of their conduct and opinions, and dispels many misconceptions about them. Being based almost ex-

clusively on the German-language press, particularly in Ohio, it is limited in scope. Although less intemperately expressed, many of the views of these German-Americans were held by other people. Peace sentiment, the strength of which Professor Wittke under-estimates, was widespread among Americans as well as German-Americans. One thing Professor Wittke definitely proves is that the German-language press was as undependable as the American-language press in interpreting the war.—H. C. PETERSON.

Brookings: A Biography (Macmillan Co., pp. xi, 334), by Hermann Hagedorn, is intensely interesting because it sketches without cluttering details the story of an amazing career, and genuinely significant because it portrays with sympathy and skill but without exaggeration "the spiritual growth of a self-made man" (p. vii). As a philanthropist, Brookings gave himself as well as his money. He had the divine spark because of his passion for creating socially useful things, each time with broader vision. Only his last creation, the Brookings Institution, bears his name. Mr. Hagedorn's insight into the spiritual growth of a man is a notable biographical achievement.—JAMES HART.

In 1921, there began to appear *A History of France from the Death of Louis XI* by John C. S. Bridge. The first four volumes gave in greater detail than any other work which has yet been published in English the political, diplomatic, and military history of France from 1483 to 1515. They were marked by wide research in the printed sources and a distinguished style. In the fifth volume (Clarendon Press, pp. xvi, 366), the author stops the progress of his narrative in order to describe in all of its phases the situation in France at the time of the accession of Francis I.—C. P. HIGBY.

In 1936 (Henry Holt and Co., pp. viii, 620), by Alvin C. Eurich and Elmo C. Wilson, is in the nature of an annual edition of the "March of Time." Ten chapters are devoted to a résumé of what the authors consider the significant events and trends in the United States during the year, and ten more to a similar treatment of the international scene. The book has little value for the political scientist, except possibly as a "memory jogger."

Government, Business, and the Individual (pp. 112), prepared by Elizabeth S. May and published by the American Association of University Women, is a syllabus, with references, for popular study of "current controversy in economic, political, and social questions."

RECENT PUBLICATIONS OF POLITICAL INTEREST BOOKS AND PERIODICALS

CHARLES S. HYNEMAN
University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

Books

- Baker, Helen.* Social security. Pp. 31. Princeton (N. J.): Princeton Univ. 1933.
- Bates, Ernest Sutherland, and Williams, Alan.* American hurly-burly. Pp. 351. N. Y.: McBride. 1937.
- Bent, Myron Hammond.* 'Round and around coming out nowhere; a review of the new deal, with an appeal to reason. Pp. 288. Wash.: Author, 1524 L. St. N.W. 1936.
- Berger, A. H.* One hundred and seven practical methods of minimizing pay-roll taxes. Pp. 159. N. Y.: Tax Consultants of Am. 1936.
- Bonbright, James C.* Valuation of property. Pp. 1250. N. Y.: McGraw-Hill. 1937.
- Buck, A. E.* Modernizing our state legislatures. Pp. 50. Phila.: Am. Acad. of Pol. and Soc. Sci. 1936.
- Cordell, William Howard, and Cordell, Kathryn Coe,* eds. American points of view. Pp. 316. Garden City (N. Y.): Doubleday. 1937.
- Cummings, Homer, and McFarland, Carl.* Federal justice; chapters in the history of justice and the federal executive. Pp. 576. N. Y.: Macmillan. 1937.
- Davison, Malcom M.* Property tax reduction in California; a study of tax relief to property owners in California, 1931-1936. Pp. 36. Berkeley (Calif.): Univ. of Calif., Bureau of Pub. Admin. 1937.
- Dorf, Philip.* Visualized American government; principles and problems. Pp. 304. N. Y.: Oxford Book Co. 1936.
- Editors of the Economist.* The new deal. N. Y.: Knopf. 1937.
- Ernst, Morris Leopold.* The ultimate power. Pp. 359. Garden City (N. Y.): Doubleday. 1937.
- Fairchild, Henry Pratt, and Others.* Do we need uniform divorce and marriage laws? Pp. 36. N. Y.: American Book. 1936.
- Foster, William Z.* The crisis in the socialist party. Pp. 70. N. Y.: Workers Library Pubs. 1936.
- Frankfurter, Felix.* The commerce clause under Marshall, Taney, and Waite. Pp. 114. Chapel Hill (N. C.): Univ. of N. C. Press. 1937.
- Garland, J. V., and Phillips, Charles F.* The crisis in the electric utilities. Pp. 216. N. Y.: H. W. Wilson. 1936.
- Gayer, Arthur D.* Public works in prosperity and depression. Pp. 460. N. Y.: Nat. Bureau of Econ. Research. 1937.
- Gulick, Luther.,* ed. Improved personnel in government service. Pp. 277. (Annals of Am. Academy of Political and Social Science, Jan., 1937). Phila.: Acad. of Pol. and Soc. Sci.
- Holmes, Oliver Wendell.* Justice Oliver Wendell Holmes; his book notices, uncollected letters, and papers. Pp. 280. N. Y.: Central Book Co. 1936.
- Hopkins, William S.* Seasonal unemployment in the state of Washington. Pp. 87. Seattle: Univ. of Wash. Press. 1937.
- Hormell, Orren C.* Personnel problems in Maine: the merit system. Pp. 80. (Bowdoin College Bull. no. 233.) Brunswick (Me.): Bowdoin College. 1936.

Howard, Charles P., and Sokolsky, George E. How can labor and industry solve their problem? Pp. 29. N. Y.: American Book. 1937.

Jensen, Jens Peter. Government finance. Pp. 627. N. Y.: Crowell, 1937.

Johrson, Hugh S., and Bardo, Clinton L. Can business absorb our unemployed? Pp. 34. N. Y.: American Book. 1936.

Long, Joseph Ragland. Cases on constitutional law. Pp. 1395. Rochester (N. Y.): Lawyers Coöper. Pub. Co. 1936.

Mack, Ruth Prince. Controlling retailers; a study of coöperation and control in retail trade, with special reference to the NRA. Pp. 551. N. Y.: Columbia Univ. Press. 1936.

Maguire, John M., and Magill, Roswell. Cases on the law of taxation. Pp. 1034. Chicago: Foundation Press. 1936.

Makolm, George A., and Laurel, José P. Cases on constitutional law. Pp. 488. Rochester (N. Y.): Lawyers Coöper. Pub. Co. 1936.

Maxzy, Chester Collins. The American problem of government. Pp. 710. N. Y.: Crofts. 1936.

Melick, Harry C. W. Sale of food and drink at common law and under the uniform sales act. Pp. 346. N. Y.: Prentice-Hall. 1936.

Mills, Harry A. Sickness and insurance. Pp. 175. Chicago: Univ. of Chicago Press. 1937.

Moore, Clyde B. Our American citizenship. Pp. 510. N. Y.: Scribner. 1936.

Nichols, Egbert Ray, and Baccus, Joseph Harold. comp. Selected articles on minimum wages and maximum hours. Pp. 461. N. Y.: H. W. Wilson. 1936.

O'Brien, Patrick Joseph. Forward with Roosevelt. Pp. 286. Phila.: Winston. 1936.

Parkins, A. E., and Whitaker, J. R. Our natural resources and their conservation. Pp. 650. N. Y.: Wiley. 1936.

Post, Charles Gordon, Jr. The supreme court and political questions. Pp. 145. Baltimore (Md.): Johns Hopkins Press. 1936.

Randall, Walter A., and Callahan, Helen M., comps. What you pay and what you get under the social security act. Pp. 72. N. Y.: The Randall Co. 1937.

Rankin, E. R., comp. Government ownership and operation of electric utilities; debate handbook. Pp. 132. Chapel Hill (N. C.): Univ. of N. C. Press. 1936.

Seldes, Gilbert. Mainland. Pp. 443. N. Y.: Scribner. 1936.

Senning, John P. The one-house legislature. Pp. 136. N. Y.: McGraw-Hill. 1937.

Sher, I. Herman. Your income tax. Pp. 128. N. Y.: Simon and Schuster. 1937.

Southworth, Alva Tisdale. The common sense of the constitution and leading supreme court decisions. Pp. 166. Boston: Allyn & Bacon. 1936.

Utley, Stuart Wells. The American system; shall we destroy it? Pp. 307. Detroit: Speaker-Hines Press. 1936.

Walzen, Charles F. Fundamentals of transportation. Pp. 308. N. Y.: Traffic Pub. Co. 1936.

Walker, E. Ronald. Unemployment policy. Pp. 270. London: Witherby. 1936.

Warren, Charles. The making of the constitution. Pp. 844. Boston: Little, Brown. 1937.

Wilson, Fred Taylor. Our constitution and its makers. Pp. 585. N. Y.: Revell. 1937.

Wolman, Leo. Ebb and flow in trade unionism. Pp. 251. N. Y.: Nat. Bureau of Econ. Research. 1937.

Wyatt, Birchard E. Private group retirement plans. Pp. 155. Wash.: Graphic Arts Press. 1936.

Zeller, Belle. Pressure politics in New York. Pp. 320. N. Y.: Prentice-Hall. 1937.

Articles

Administration. Federal corporations, their purpose and functions. *Peyton R. Evans*. Fed. Bar Assoc. Jour. Oct., 1936.

———. The chief executive and auxiliary agencies in the state of Wisconsin. *W. R. Sharp*. Rev. Int. des Sciences Admin. Oct., 1936.

———. The business man's stake in the civil service. *Robert L. Johnson*. Nat. Munic. Rev. Dec., 1936.

———. The Walsh-Healey act: a congressional gesture. *Columbia Law Rev.* Jan., 1937.

———. Conditions in government contracts: the Walsh-Healey act. *Univ. of Penn. Law Rev.* Jan., 1937.

———. Changing the public mind about patronage. *Katherine A. Frederic*. Pub. Opinion Quar. Jan., 1937.

———. The study of administration. *Marshall E. Dimock*. Am. Pol. Sci. Rev. Feb., 1937.

Administrative Law. The liability of public officers in Illinois for funds in their custody. *C. S. Hexton*. John Marshall Law Quar. Dec., 1936.

———. Government in robes. *W. A. Roberts*. Pub. Util. Fort. Dec. 17, 1936.

———. Review of agreements and awards and setting aside of final receipts under the workmen's compensation act. *S. H. Torchia*. Dickinson Law Rev. Jan., 1937.

———. Legislative power versus delegated legislative power. *O. Douglas Weeks*. Georgetown Law Rev. Jan., 1937.

———. The supreme court and administrative law. *Reuben Oppenheimer*. Columbia Law Rev. Jan., 1937.

———. Review of federal administrative decisions. *O. R. McGuire*. The Brief. Jan., 1937.

———. Recent court decisions on the dismissal of teachers. *R. K. Hall*. Educ. Admin. and Supervision. Jan., 1937.

———. The proposed United States administrative court. *Robert M. Cooper*. Mich. Law Rev. Feb., 1937.

———. The separation of powers. *Stuart A. MacCorkle*. Tenn. Law Rev. Feb., 1937.

———. The national railroad adjustment board: a unique administrative agency. *Lloyd K. Garrison*. Yale Law Jour. Feb. 1937.

———. The improvement of administrative law: an opportunity for the legal profession. *E. S. Gambrell*. Administrative boards and agencies. *J. R. Morford*. Am. Bar Assoc. Jour. Feb., 1937.

Agriculture and Land Policy. The consumer and the A.A.A. *Don S. Anderson*. Jour. of Marketing. July, 1936.

———. A sociologist in Eden. *Donald Davidson*. Am. Rev. Dec., 1936.

———. Homestead exemption for Nebraska. *A. W. Gordon*. Nat. Munic. Rev. Dec., 1936.

———. Some aspects of farm tenancy. *A. B. S.* Georgetown Law Rev. Jan., 1937.

———. The last of the public domain. *Edward N. Nockels*. Am. Federationist. Jan., 1937.

Alaska. Constitutional status of education in Alaska. *Lena B. Hecker*. Social Science. Jan., 1937.

Bankruptcy. Section 77B, the Chandler bill, and other proposed revisions. *John Gerdes*. Mich. Law Rev. Jan., 1937.

Claims. Claims by or against the United States. *David Neumann*. Fed. Bar Assoc. Jour. Oct., 1936.

Communications. The \$1,150,000 phone probe up to date. *R. C. Davies*. Pub. Util. Fort. Nov. 5, 1936.

Constitutional Law. The scope of federal power over price discriminations. *Edward M. Brown*. Univ. of Cincinnati Law Rev. Jan., 1937.

———. Milk control legislation. *D. B. S. Temple* Law Quar. Jan., 1937.

———. Corporate taxpayers and the equal protection clause. *John B. Sholley*. Ill. Law Rev. Jan., 1937.

———. Constitutionality of processing tax refund limitations. *John E. Hughes*. Tax Mag. Jan., 1937.

———. Mortgage deficiency judgment acts and their constitutionality. *D. J. Farago*. Considerations regarding the late deficiency judgment acts. *F. C. Feichter, Jr.* Dickinson Law Rev. Jan., 1937.

———. Legislative no-man's land. *Henry A. Shinn*. Current Hist. Jan., 1937.

———. Some aspects of federal jurisdiction. *Grover M. Moscowitz*. U. S. Law Rev. Jan., 1937.

———. A feasible constitutional federal farm policy. *H. Mayer-Daxlanden*. Am. Federationist. Feb., 1937.

———. Constitutional law: zoning ordinances prohibiting repair of existing structures. *William F. Fratcher*. Mich. Law Rev. Feb., 1937.

———. Prohibiting refunds of unconstitutional taxes. Univ. of Chicago Law Rev. Feb., 1937.

———. Constitution making in 1935-1936. *Hugh E. Willis*. Wash. Univ. Law Quar. Feb., 1937.

———. Social welfare and the constitution. *Donald R. Richberg*. Forms of a constitutional amendment. *Lloyd K. Garrison*. Am. Labor Legis. Rev. Mar., 1937.

———. Federal System. State taxation and the new federal instrumentalities. *Harold W. Stokes*. Iowa Law Rev. Nov., 1936.

———. States and the nation. *John Dickinson*. States' rights, nationalism, and the supreme court. *George R. Farnum*. Commercial Law Jour. Jan., 1937.

———. National and state coöperation under the commerce clause. *F. D. G. Ribbels*. Columbia Law Rev. Jan., 1937.

———. Constitutional law: interstate commerce: validity of federal statute prohibiting interstate shipment of prison-made goods. *Joseph H. Mueller*. Mich. Law Rev. Feb., 1937.

———. National-state coöperation; its present possibilities. *Edward S. Corwin*. Yale Law Jour. Feb., 1937.

———. Judicial Review. Reviewing judicial review. *Clarence E. Manion*. Ind. Law Jour. Feb., 1937.

———. What can be done about the constitution and the supreme court? *Osmord K. Fraenkel*. Columbia Law Rev. Feb., 1937.

———. Labor. The minimum wage law. *L. H. Rubinstein*. St. John's Law Rev. Nov., 1936.

———. Recent interpretation by the supreme court of liberty of contract in employment cases. *Kurt Stern*. Univ. of Cincinnati Law Rev. Jan., 1937.

———. Personal Guarantees. Federal liquor laws: admissibility of evidence obtained through unlawful search or seizure. N. Y. Univ. Law Quar. Rev. Nov., 1936.

———. Constitutional law: federal criminal procedure: short form indictment. *Jamer H. Robertson*. Trials: right to "public trial": power of judge to exclude general public. *Francis T. Goheen*. Mich. Law Rev. Jan., 1937.

———. Penal ordinances and the guaranty against double jeopardy. *J. A. C. Grant*. Georgetown Law Rev. Jan., 1937.

———. Proposed limitations upon the privilege against self-incrimination. *Morton M. Leibowitz*, Mo. Law Rev. Jan., 1937.

———. State. Proportional representation: the outlook for its constitutionality in the state of New York. *M. J. O'Reilly*. St. John's Law Rev. Nov., 1936.

———. Special legislation: another twilight zone. *Frank E. Horack* and *Matthew E. Welsh*. Ind. Law Jour. Feb., 1937.

Federal System. Federal-state relations in planning. *James E. Pate*. Social Forces. Dec., 1936.

Highway Administration. Reform in highway administration. *R. C. Jarvis*. Pub. Admin. Jan., 1937.

Housing. Low-rent housing and state financing. *E. H. Foley, Jr.* Univ. of Penn. Law Rev. Jan., 1937.

———. Housing as a public health problem. *C. E. A. Winslow*. Am. Jour. of Pub. Health. Jan., 1937.

———. Legal aspects of low-rent housing in New York. *E. H. Foley, Jr.* Fordham Law Rev. Jan., 1937.

———. The "housing problem." *Ralph Borsodi*. Am. Rev. Jan., 1937.

Initiative. Sufficiency certification of initiative signatures in Oklahoma. *Cortez A. M. Ewing*. Am. Pol. Sci. Rev. Feb., 1937.

Interstate Relations. District of Columbia-Virginia boundary line controversy. *T. S. Settle*. Fed. Bar. Assoc. Jour. Oct., 1936.

———. Extradition: recent statutory changes in interstate rendition of criminals. N. Y. Univ. Law Quar. Rev. Jan., 1937.

———. The economic limitations to certain uses of interstate compacts. *Joseph J. Spengler*. Am. Pol. Sci. Rev. Feb., 1937.

Labor. The national labor relations act. *R. Heath Larry* and *Charles D. Cowley*. Univ. of Pittsburgh Law Rev. Oct., 1936.

———. Labor law: legality of picketing against a product. N. Y. Univ. Law Quar. Rev. Nov., 1936.

———. The anti-union contracts. *William Tapley*. St. John's Law Rev. Nov., 1936.

———. Labor law: Wagner act: collective bargaining through majority representatives as it affects freedom of contract. Cornell Law Quar. Dec., 1936.

———. Analysis of the New York law of secondary boycott. *Milton H. Feinberg*. Brooklyn Law Rev. Dec., 1936.

———. Statutory regulation of wage assignments in Illinois. *G. O. Hebel*. Chicago-Kent Rev. Dec., 1936.

———. Back to work: when and where? *G. H. Grattan*. Harper's. Jan., 1937.

———. Five years of the Norris-La Guardia Act. *Herbert N. Monkemeyer*. Mo. Law Rev. Jan., 1937.

———. Men against machines. *J. George Frederick*. Can we employ the 8,000,000? *John G. Jones* and *J. George Frederick*. Forum. Jan., Mar., 1937.

———. Agricultural labor and social legislation. *Leif Dahl*. Am. Federationist. Feb., 1937.

———. Congress assails industrial thuggery. Univ. of Penn. Law Rev. Feb., 1937.

———. Steel vs. John L. Lewis. *Gordon Carroll*. Am. Mercury. Feb., 1937.

———. Steel vs. labor. *Michael Monday*. Catholic World. Feb., 1937.

———. The right to break strikes. *Edward Levinson*. Current Hist. Feb., 1937.

Legislatures and Legislation. Development of treaty procedure in the United States senate. *D. Roland Potter*. Fed. Bar Assoc. Jour. Oct., 1936.

———. Leadership in the house. *Floyd M. Riddick*. So. Atlan. Quar. Jan., 1937.

———. Nebraska's non-partisan unicameral legislature. *L. E. Aylsworth*. *Nat. Munic. Rev.* Feb., 1937.

Liquor Control. The dispensary movement in North Carolina. *D. J. Whitener*. *So. Atlan. Quar.* Jan., 1937.

Money. Forestalling inflation. *Joseph E. Goodbar*. *Current Hist.* Jan., 1937.

———. Regulation of bank credit. *Newton D. Alling*. *Bankers Mag.* Jan., 1937.

Monopoly and Competition. Work of the federal trade commission. *Robert E. Freer*. *Fed. Bar Assoc. Jour.* Oct., 1936.

———. Implications of the Robinson-Patman act for marketing. *N. H. Engle*. Discount systems under the Robinson-Patman act. *Edwin B. George*. *Jour. of Marketing.* Oct., 1936, Jan., 1937.

———. The Robinson-Patman act. *Univ. of Penn. Law Rev.* Jan., 1937.

———. Changes in federal price discrimination law effected by the Robinson-Patman act. *Va. Law. Rev.* Jan., 1937.

———. The Robinson-Patman act in action. *Yale Law Jour.* Jan., 1937.

———. Resale price maintenance and price fixing. *Harvard Law Rev.* Feb., 1937.

———. A second attack on price discrimination: the Robinson-Patman act. *Milo Fowler Hamilton* and *Lee Loevinger*. *Wash. Univ. Law Quar.* Feb., 1937.

———. The aluminum industry; an anti-trust experience. *Columbia Law Rev.* Feb., 1937.

———. A government of economic laws and not of men. *Benjamin A. Javits*. *Commercial Law Jour.* Feb., 1937.

———. The Robinson-Patman law; some assumptions and expectations. *Edmund P. Learned* and *Nathan Isaacs*. The problem of administering the Robinson-Patman act. *Melvin T. Copeland*. *Harvard Business Rev.* Winter, 1937.

Parties and Elections. Legal control of party organization and powers in Mississippi. *Nolan Fortenberry*. *Miss. Law Jour.* Dec., 1936.

———. Consistency in party voting from 1896-1932. *Ralph* and *Mildred Fletcher*. *Social Forces.* Dec., 1936.

———. As Michigan goes. *Arthur Pound*. *Atlantic.* Jan., 1937.

———. Limitations on access to the general election ballot. *Columbia Law Rev.* Jan., 1937.

———. Radio law in relation to election of president and vice-president. *Nathan Boone Williams*. *Temple Law Quar.* Jan., 1937.

———. Shall we abolish the electoral college? *Lindsay Rogers* and *W. Y. Elliott*. *Forum.* Jan., 1937.

———. Monroe on the Adams-Clay "bargain." *Barnes F. Lathrop*. *Am. Hist. Rev.* Jan., 1937.

———. Autopsy on the republican party. *Harold L. Varney*. *Am. Mercury.* Jan., 1937.

———. The negro people and the elections. *James W. Ford*. The crisis in the socialist party. *Wm. Z. Foster*. The Washington state elections. *Morris Raport*. *The Communist.* Jan., Feb., 1937.

———. Tightening the direct primary in Michigan. *Harold M. Dorr*. *Am. Pol. Sci. Rev.* Feb., 1937.

Personalities. The senator from Arkansas. *Fortune.* Jan., 1937.

———. Boss Pendergast. *Ralph Coghlan*. *Forum.* Feb., 1937.

Public Relations. Informational techniques of the department of agriculture. *T. Swann Harding*. President Roosevelt and the Washington correspondents. *Leo C. Rosen*. *Pub. Opinion Quar.* Jan., 1937.

Public Utilities. Commission jurisdiction over utility coöperatives. *Israel Packel*. Mich. Law Rev. Jan., 1937.

———. The model commission, an iridescent dream. *W. M. Maupin*. State utility regulation as a regulator sees it. *R. E. Elgen*. Holding company death via the new tax law. *F. H. Seidman*. Pub. Util. Fort. Oct. 22, Nov. 19, 1936.

———. **Government Competition.** Power district legislation. *Robert D. Baum*. Nat. Munic. Rev. Jan., 1937.

———. The state in the rôle of entrepreneur and manager. *K. A. Doukas*. New deal education on the power problem. *G. E. Doying*. The power pool program. *Owen Ely*. The federal power experiments. *F. T. Fowle*. The Quoddy folly. *H. E. Riggs*. After yardstick rates, what? *F. X. Welch*. What politics has handed the electric utilities. *R. B. Cooney*. Rural electric coöperatives expanding rapidly under R.E.A. *W. C. Adams*. Uncle Sam as promoter. *Jonathan Brooks*. Pub. Util. Fort. Nov. 5, 19, Dec. 3, 17, 1936, Jan. 21, Feb. 4, 1937.

———. The nature of the "rate base" in the regulation of public utilities. *M. G. de Chazeau*. Quar. Jour. of Econ. Feb., 1937.

———. Temporary utility rates. *Yale Law Jour.* Jan., 1937.

Public Works. Contractor's bonds on federal construction projects. *E. H. Cushman*. Dickinson Law Rev. Oct., 1936.

Roosevelt Administration. Roosevelt: an American view. *Ernest M. Patterson*. President Roosevelt's second term. *S. K. Ratchiffe*. Contemp. Rev. Jan., Feb., 1937.

———. His excellency's loyal opposition. *Fortune*. Feb., 1937.

———. Agenda for a second term. *Ernest K. Lindley*. Va. Quar. Rev. Winter, 1937.

———. Issues before the next administration. *Walter Lippmann*. *Yale Rev.* Winter, 1937.

Securities Control. Private offerings and sales of utilities securities. *L. W. Longes*. Pub. Util. Fort. Oct. 22, 1936.

———. Manipulative practices and the securities exchange act. *James H. Mathias*. Univ. of Pittsburgh Law Rev. Oct., Dec., 1936.

———. Three years of the securities act. *Warner Fuller and Others*. Law and Contemp. Problems. Jan., 1937.

———. Market manipulation and the securities exchange act. *Yale Law Jour.* Feb., 1937.

———. The waiting period under the securities act. *George E. Bates*. Harvard Business Rev. Winter, 1937.

Social Security. Public welfare legislation. *L. T. Bennett, Jr.* Fed. Bar Assoc. Jour. Oct., 1936.

———. Social security law and administration. *Marion B. Folsom*. Am. Labor Legis. Rev. Dec., 1936.

———. The provision of accomodation for the aged. *John Moss*. Local Govt. Admin. Dec., 1936.

———. Apportionment of state relief funds. *L. Lázló Ecker R.* Progress and prospects under the social security act. *Frank Bana*. Nat. Munic. Rev. Dec., 1936, Feb., 1937.

———. Relief in the rural south. *Howard B. Myers*. The place of social security in our modern economic life. *Harry D. Wolf*. Social security in the south. *Frank T. de Vyser*. So. Econ. Jour. Jan., 1937.

———. Relief and security. *Bessie A. McClenahan*. Sociol. and Soc. Research. Jan.-Feb., 1937.

———. Pensions for the blind. *Gabriel Farrell*. Unemployment insurance. *A. A. Imberman*. Current Hist. Jan., Feb., 1937.

———. Old age security in the social security act. *Edwin E. Witte*. Jour. of Pol. Econ. Feb., 1937.

———. Unemployment insurance under the social security act. *James H. Wear, Jr.* Wash. Univ. Law Quar. Feb., 1937.

———. The social security act. *B. M. Selekman*. Harvard Business Rev. Winter, 1937.

Sterilization. Sociological expediency of sterilization statute. *Jay F. Arnold*. Ky. Law Jour. Jan., 1937.

Subsidies. The government has always paid. *Maurice Newfeld*. Am. Scholar. Winter, 1937.

Taxation. Legal phases of local sales tax. *Morton Baum*. The revenue act of 1936: pyramiding gains and losses through tax free exchanges. *J. Mark Jacobson* and *Mark H. Johnson*. N. Y. Univ. Law Quar. Rev. Nov., 1936.

———. Double taxation of incomes. *Milton J. Schloss*. Univ. of Cincinnati Law Rev. Jan., 1937.

———. Income tax evasion and avoidance: the deflection of income. *Lucius A. Buck*. Va. Law Rev. Jan., 1937.

———. Income in theory and income taxation in practice. *Irving Fisher*. *Econometrica*. Jan., 1937.

———. Idealism versus political opportunism in taxation. *C. Ward Macy*. Social Sciences. Jan., 1937.

———. The vice of taxing capital as income. *J. G. Saxe*. N. Y. State Bar Assoc. Bull. Jan., 1937.

———. Who paid the processing taxes—the first time? *Wirth F. Ferger*. Economic effects of the new deal tax policy. *Truman C. Bigham*. So. Econ. Jour. Jan., 1937.

———. Income tax exemptions and the loss of federal revenues. *G. D. Brabson*. The taxation of corporate surplus. *G. N. Nelson*. The federal tax program during 1935 and 1936. *A. H. Kent*. Kentucky income tax compared with federal income tax. *J. W. Martin*. Tax refunds in Illinois. *L. R. Bloomenthal*. The undistributed profits tax: suggested changes in law. *F. P. Seidman*. Who pays the taxes? *Lyle Owen*. Tax Mag. Jan., Feb., 1937.

———. Taxation of institutions of purely public charity in Pennsylvania. Univ. of Penn. Law Rev. Feb., 1937.

Territories. Our new islands. *William A. Du Puy*. Current Hist. Feb., 1937.

———. Notas y referencias para la historia de los partidos políticos de Puerto Rico. *Luis Muñoz Morales*. Rev. Jurid. de la Univ. de la Puerto Rico. Sept.-Oct., 1936.

Transportation. Transportation development in the United States. Proc. Acad. of Pol. Sci. Jan., 1937.

———. Three years of attempted transportation coördination. *V. D. Cover*. Pub. Util. Fort. Feb. 4, 1937.

Veto. The presidential veto since 1889. *Katherine A. Towle*. Am. Pol. Sci. Rev. Feb., 1937.

FOREIGN AND COMPARATIVE GOVERNMENT

Books

Annan, Gustav. Chang Kai-shek und die Regierung der Kuomintang in China. Pp. 240. Berlin: Vowinkel. 1936.

Askley, William J. The economic organisation of England. Pp. 268. N. Y.: Longmans. 1936.

Assaf, Michael. The Arab movement in Palestine and its origins. Pp. 85. Tel-Aviv: Davar. 1936.

Bellegarde, Dantes. Haiti and her problems. Pp. 55. Rio Piedras: Univ. of Puerto Rico. 1936.

Bonnard, R. Précis de droit public. Pp. 503. Paris: Recueil Sirey. 1936.

Clarke, John J. Outlines of central government including the judicial system of England. Pp. 387. London: Pitman. 1936.

Clokis, Hugh McDowell. The origin and nature of constitutional government. Pp. 156. London: Harrap. 1936.

Conigrave, C. Price. North Australia. Pp. 319. London: Cape. 1936.

Copland, D. B., and Janes, C. V. Cross currents of Australian finance. Pp. 493. Sidney: Angus & Robertson. 1936.

Cunningham, Charles. Germany today and tomorrow. Pp. 336. London: Unicorn Press. 1936.

Darrah, David. Hail Caesar. Pp. 337. Boston: Hale, Cushman & Flint. 1936.

Dertilis, Panagiotis B. Le problème de la dette publique des états Balkaniques. Pp. 388. Athens: Flamman. 1936.

De Viti de Marco, Antonio. First principles of public finance. Pp. 435. N. Y.: Harcourt. 1936.

Dickie, J. P. The coal problem: a survey, 1910-1936. Pp. 382. London: Heinemann. 1936.

Dorot, Jacques. La France ne sera pas un pays d'esclaves. Pp. 154. Paris: Les Oeuvres Françaises. 1936.

Dubost, G. Le conseil national économique; ses origines, son institution, et son organisation, son oeuvre, son avenir. Paris: Domat-Montchrestien. 1936.

Dumont, René. Misère ou prospérité paysanne? Pp. 192. Paris: Fustier. 1936.

Ennis, Thomas E. French policy and development in Indo-China. Pp. 230. London: Cambridge Univ. Press. 1936.

Eyles, Wm. E. Parliamentary and local government elections, with an outline of the provisions relating to the registration of electors and jurors. Pp. 180. London: Pitman. 1936.

Fink, Waldemar. Ostideologie und Ostpolitik. Pp. 51. Berlin: Götz & Bengisch. 1936.

Florentiis, G. de. L'altra guerra: le materie prime e l'Italia. Pp. 292. Milan: Bompiani. 1936.

Galt, Russell. The effects of centralization on education in modern Egypt. Pp. 134. Cairo: American Univ. at Cairo. 1936.

Gannes, Harry, and Repard, T. Spain in revolt: a history of the civil war in Spain in 1936 and a study of its social, political, and economic causes. Pp. 287. London: Gollancz. 1936.

Garas, Félix. La sélection des fonctionnaires. Pp. 200. Paris: Picart. 1936.

Germain-Martin. Le problème financier, 1930-1936. Pp. 428. Paris: Domat-Montchrestien. 1936.

Godden, G. M. Communist operations in Spain. Pp. 24. London: Burns, Oates & Washbourne. 1936.

Goold-Adams, R. J. M. South Africa today and tomorrow. Pp. 260. London: Murray. 1936.

Gurian, Waldemar. Hitler and the Christians. Pp. 182. London: Sheed & Ward. 1936.

Hason, Ibn. The central structures of the Mughal Empire. Pp. 398. London: Oxford Univ. Press. 1936.

Hearnshaw, F. J. C., ed. The political principles of some notable prime ministers of the nineteenth century. Pp. 308. London: Macmillan. 1936.

Howe, Frederick C. Denmark—the coöperative way. Pp. 277. N. Y.: Coward-McCann. 1936.

Hubbard, L. E. Soviet money and finance. Pp. 335. N. Y.: Macmillan. 1937.

Jennings, W. Ivor. Cabinet government. Pp. 496. London: Cambridge Univ. Press. 1936.

Farve, D. G. Poverty and population in India. Pp. 127. London: Oxford Univ. Press. 1936.

Kerenski, Alexander. L'expérience Kerenski. Pp. 183. Paris: Payot. 1936.

Khan, M. Mir. Federal finance: a study of the problems of public finance arising in federal constitutions. Pp. 238. London: R. Hale. 1936.

Krickerbocker, Hubert R. The siege of Alcazar; a war-log of the Spanish revolution. Pp. 199. Phila.: McKay. 1936.

Krofta, Kamil. Czechoslovakia and the crisis of collective security. Pp. 61. Prague: Orbis. 1936.

Lestelle, J. Les lois des 7 février 1933 et 25 mars 1935 sur les garanties de la liberté individuelle. Paris: Domat-Monchrestien. 1936.

Ludwig, Wolfgang Alexander. Inhalt und Natur des Vertrages von 15. November 1924 zwischen dem Bayerischen Staate und der Evangelisch-Lutherischen Kirche in Bayern rechts des Rheins. Pp. 89. Borna-Leipzig: Nöske. 1936.

Mazsergh, Nicholas. The government of northern Ireland; a study in devolution. Pp. 335. London: Allen & Unwin. 1936.

Marraro, Howard R. The new education in Italy. Pp. 506. N. Y.: S. F. Vanni. 1936.

Marx, Fritz Morstein. Beiträge zum Problem des parlamentarischen Minderheiten schutzes. Pp. 48. Hamburg: Lütcke & Wulff. 1924.

Morriou, Felix. The civil war in Spain. Pp. 64. N. Y.: Pioneer Publishers. 1936.

Newcomer, Mabel. Central and local finance in Germany and England. Pp. 392. N. Y.: Columbia Univ. Press. 1937.

Nicoias, M. P. De Nietzsche à Hitler. Paris: Fasquelle. 1936.

Noonan, John P. Principles of law and government. Pp. 224. Chicago: Mentzer, Bush. 1936.

Organisation politique et administrative des colonies. Pp. 533. Brussels: Établissements Généraux d'Imprimerie. 1936.

Paul-Louis. Histoire du socialisme en France. Pp. 434. Paris: M. Rivière. 1936.

Peers, Allison. The Spanish tragedy. Pp. 247. N. Y.: Oxford Univ. Press. 1936.

Pray, Elieser. Was geht in Palaestrina vor. Pp. 64. Tel-Aviv: Hashomer Hazair. 1936.

Prélot, Marcel. L'empire fasciste. Pp. 258. Paris: Sirey. 1936.

Ranchin, G. Le chef de l'état et la constitution de cabinet en droit public allemand. Paris: A. Pedone. 1936.

Rappard, William E., and *Others.* A source book on European governments. N. Y.: Van Nostrand. 1937.

Renaut D'Oultre-Seille, F. P. Le secret service de l'amirauté britannique, 1776-1783. Pp. 120. Paris: Ed. du Graouli. 1936.

Rosenberg, Arthur. History of the German republic. Pp. 350. London: Methuen. 1936.

Rotvand, Georges. Franco et la nouvelle Espagne. Pp. 96. Paris: Denoël et Steele. 1936.

Rountree, Meredith. The railway worker; a study of the employment and unemployment problems of the Canadian railways. Pp. 386. N. Y.: Oxford. 1936.

Ryan, Desmond. Unique dictator: a study of Eamon de Valera. Pp. 311. London: Barker, 1936.

Sánchez, George I. Mexico: a revolution by education. Pp. 211. N. Y.: Viking, 1936.

Savadjian, Léon, ed. Bibliographie Balkanique, 1935. Pp. 109. Paris: Société Générale d'Imprimerie, 1936.

Schenzer, Herbert. Die Volksabstimmung im heutigen deutschen Staatsrecht. Pp. 57. Quackenbrück: Trute, 1936.

Schiller, F. C. S. The future of the British Empire after ten years. Pp. 133. London: K. Paul, 1936.

Seebach, Werner. Änderungen des deutschen Staatsangehörigkeitsrechts seit dem 30. Januar 1933. Pp. 67. Bleikerode am Harz: Niltf. 1936.

Selekman, B. M. Law and labor relations; a study of the industrial disputes investigation act of Canada. Pp. 70. Boston: Harvard Univ., Grad. School of Bus. 1936.

Shachtman, Max. Behind the Moscow trial. Pp. 142. N. Y.: Pioneer Pubs. 1936.

Sieberter, Anton. Katalonien gegen Kastilien. Pp. 309. Vienna: Saturnia-Verlag, 1936.

Silbernagel-Caloyanni, Alfred. Suisse: organisation politique, administrative et judiciaire de la confédération Helvétique et de chaque canton. Pp. 176. Paris: Sirey, 1936.

Stalin, Joseph. Stalin on the new soviet constitution. Pp. 30. N. Y.: Int. Pubs. 1936.

Stoye, Johannes. The British Empire: its structure and its problems. Pp. 357. London: Lane, 1936.

Timpson, George F. Kings and commoners; studies in British idealism. Pp. 206. London: Burrow, 1936.

Tuaillon, Georges. Les dangers extérieurs et le moral de notre armée nationale. Pp. 64. Paris: Charles-Lavauzelle, 1936.

Vojacek, Jan. Survey of the principal national patent systems. Pp. 209. London: Pitman, 1936.

Ward, Harry F., and MacLeod, A. A. Spain's democracy talks to America; an interview with representatives of the democratic government of Spain. Pp. 18. N. Y.: Am. League against War and Fascism, 1936.

Williams-Ellis, Amabel, and Fisher, F. J. A history of English life; political and social. Pp. 173. London: Methuen, 1936.

Articles

Administration. Administration in Indo-China, with Indian comparisons. *C. A. Le Neveu.* The future of the Indian civil service. *James Crerar.* The Hyderabad civil service. *Richard C. French.* Asiatic Rev. Jan., 1937.

———. The permanent bureau. *Local Govt. Admin.* Dec., 1936.

Africa. Changes in northeast Africa. *Polson Newman.* Contemp. Rev. Feb., 1937.

———. Ya-t-il du communisme à Madagascar? *Georges Boussenoit.* Rev. Pol. et Parl. Jan., 1937.

Australia. Australia's constitutional troubles. *Donald Cowie.* Empire Rev. Jan., 1937.

Baltic States. The Baltic states. *J. Hampden Jackson.* Nat. Rev. Jan., 1937.

Belgium. Le mouvement rexiste et la situation politique de la Belgique. *André Buttgenbach.* Rev. Sci. Pol. Oct., 1936.

———. Le sénat belge. *M. Nakhaï.* Rev. Int. des Sciences Admin. Oct., 1936.

- . La situation politique en Belgique. *Jules Garson*. Les réformes sociales en Belgique. *Jansy*. Rev. Pol. et Parl. Nov., Dec., 1936.
- . Belgium—1936. *Curt L. Heymann*. Current Hist. Jan., 1937.
- . Belgium emphasizes security. *Richard Whittier*. Contemp. Rev. Jan., 1937.
- British Empire. Australia and New Zealand. *Donald Cowie*. The crown in South Africa. *C. W. A. Coulter*. Nat. Rev. Jan., 1937.
- . Crown, constitution, commonwealth. *A. Wyatt Tilby*. Abdication and commonwealth: legal and constitutional problems. *John Foster*. Nine. Cent. Jan., Feb., 1937.
- Canada. New Canadians come to Canada. *Anne Marriott*. Empire Rev. Jan., 1937.
- . In defense of Ontario hydro. *F. J. McDiarmid*. Pub. Util. Fort. Jan. 7, 1937.
- . Dominion disallowance of provincial legislation in Canada. *Harlow J. Hesseman*. Am. Pol. Sci. Rev. Feb., 1937.
- China. China's new deal. *Sanford Fleming*. Social Science. Jan., 1937.
- . China's progress. *Tang Leang-Li*. Current Hist. Jan., 1937.
- . Can China survive? *Hu Shih*. Forum. Jan., 1937.
- . Mukden—where the road to Madrid began. *C. F. Chang*. Pacific Affairs. March, 1937.
- . The Chinese road to office. *Arthur N. Holcombe*. Am. Scholar. Winter, 1937.
- Colonies. The future of Portugal's colonies. *Robert G. Woolbert*. For. Affairs. Jan., 1937.
- . British and French colonial technique in West Africa. *Derwent Whittlesey*. For. Affairs. Jan., 1937.
- . Colonies: the economic case examined. *B. S. Keeling*. Contemp. Rev. Feb., 1937.
- Czechoslovakia. The menace to Czechoslovakia. *Robert Machray*. Fortnightly. Feb., 1937.
- France. La protection de la liberté individuelle par les lois du 7 février 1933 et du 23 mars 1935. *B. Salingardes*. Rev. Gén. Droit Légis. et Juris. July, 1936.
- . France faithful to democracy. *Léon Blum*. Int. Conciliation. Oct., 1936.
- . Politique et finances. *Georges Bonnet*. Rev. Pol. et Parl. Nov., 1936.
- . The Blum "experience." *Sisley Huddleston*. Contemp. Rev. Jan., 1937.
- . The outlook in France. *Philip Carr*. Int. Affairs. Jan.-Feb., 1937.
- Germany. Le crépuscule du "Reichskolonialbund." *A. Lahaque*. Rev. Pol. et Parl. Dec., 1936.
- . Nazi racial anti-semitism; an analysis and estimate of its ideology. *Herran Hauscheer*. Social Science. Jan., 1937.
- . Hitler and Nietzsche. *Anthony Ludovici*. English Rev. Jan., 1937.
- . Germany today. *J. Allen Cash*. Contemp. Rev. Feb., 1937.
- . To Hitler via two men. *Ewart Edmund Turner*. Am. Scholar. Winter, 1937.
- Great Britain. Travaux britanniques de défense et de reconstruction. *Y. M. Goble*. Rev. Pol. et Parl. Nov., 1936.
- . The problem of coal. *Montague Barlow*. Nat. Rev. Dec., 1936.
- . Road competition and the regulation of railways. *Gilbert Walker*. Econ. Jour. Dec., 1936.
- . The influence of the crown, 1854-1856. *G. B. Henderson*. Juridical Rev. Dec., 1936.
- . England's duty. *Arthur Willert*. Atlantic. Jan., 1937.

- . Divorce and the throne. *Denis Gwynn*. The first parliament of Queen Elizabeth. *Brian Magee*. Dublin Rev. Jan., 1937.
- . The throne. *Editors*. Contemp. Rev. Jan., 1937.
- . King and people. *J. A. Spender*. The army recruiting problem. *Harl Winterton*. Policy and entertainment. *Ivor Brown*. War-time food supplies. *Cloudsley Brereton*. After Mr. Baldwin—what next? *Robert Bernays*. Fortnightly. Jan., Feb., 1937.
- . The abdication. The civil list. *Editor*. The machinery of government. *John Marriott*. Public relations. *C. Kent Wright*. A policy for the special areas. *John Newsom*. Nine. Cent. Jan., Feb., 1937.
- . David Windsor. *George E. G. Callin*. Current Hist. Feb., 1937.
- . The British civil service. *Harold J. Laski*. Yale Rev. Winter, 1937.
- India. The federation of India. *Lord Linlithgow*. Int. Conciliation. Nov., 1936.
- . Labour legislation in Indian states. Social insurance in India. *Rajani Kanta Das*. Modern Rev. Nov., Dec., 1936.
- . Berar and Hyderabad. *William Barton*. Empire Rev. Jan., 1937.
- . Communism and rural debt in India. *William Barton*. Nat. Rev. Jan., 1937.
- . Indian federation and the untouchable. *W. P. Barton*. Quar. Rev. Jan., 1937.
- Ireland. Trinity college, Dublin, and the Irish Free State. *H. R. Chillingworth*. Contemp. Rev. Jan., 1937.
- Italy. The mental development of Italian nationality, 1815-1848. *George F.-H. Berkeley*. Nine. Cent. Jan., 1937.
- . A propos d'un ouvrage récent: "l'empire fasciste." *Jacques Chapsal*. Rev. Pol. et Parl. Jan., 1937.
- . Whither Mussolini? *W. Walter Crotch*. Mussolini. *Ignatius Phayre*. Current Hist. Jan., Feb., 1937.
- . Totalitarian "elections" in Italy today. *Gaetano Salvemini*. Soc. Research. Feb., 1937.
- Japan. The new Japanese act on retirement allowances. *J. Kitoaka*. Int. Labour Rev. Dec., 1936.
- . Japan's "holy war" against communism. *George E. Taylor*. Fortnightly. Feb., 1937.
- . Lions vs. foxes in Japan. *William H. Chamberlin*. Yale Rev. Winter, 1937.
- Jewry. Zionism and Jewish nationalism. *C. J. Montefiore*. Nat. Rev. Dec., 1936.
- . The Jews of eastern Europe. *Desider Kiss*. For. Affairs. Jan., 1937.
- Jugoslavia. Nicholas Pašić: after ten years. *Slobodan Jovanovic*. Slavonic Rev. Jan., 1937.
- Mexico. Inside Mexico. *Maurice Halperin*. Current Hist. Feb., 1937.
- New Zealand. The restoration of compulsory arbitration in New Zealand. *E. J. Riches*. Int. Labour Rev. Dec., 1936.
- Palestine. En Palestine. *L. C. Emile Mayer*. Rev. Pol. et Parl. Nov., 1936.
- . The future in Palestine. *Douglass V. Duff*. Dublin Rev. Jan., 1937.
- Philippines. Creating a Philippine commonwealth. *David H. Popper*. For. Policy Rep. Dec. 15, 1936.
- . The Philippines under the new régime. *James G. Wingo*. Contemp. Rev. Jan., 1937.
- Popular Government. Contribution à la réforme électorale. *R. Lafitte-Laplace*. Rev. Pol. et Parl. Nov., 1936.

- . A history of the native franchise in South Africa. *J. S. Marais*. Zeitschrift f. vergleichende Rechtswissenschaft. Vol. 51, nos. 1 and 2. 1936.
- . The party system in government. *Gwilym Gibbon*. Pub. Admin. Jan., 1937.
- . Results of the elections and the people's front. *Earl Browder*. The Communist. Jan., 1937.
- Russia. Moscow demonstration trial. *Eugene Lyons*. Am. Mercury. Jan., 1937.
- . The Russian situation. *Bernard Pares*. Slavonic Rev. Jan., 1937.
- Scandinavia. Workers' parties show gains in Sweden and Norway. *Ben A. Arneson*. Am. Pol. Sci. Rev. Feb., 1937.
- Social Security. British and American old age insurance. *J. Douglas Brown*. Problems of old age benefit reserves. *M. A. Linton*. Old age benefit plan defended. *Edvard E. Witte*. Am. Labor Legis. Rev. Mar., 1937.
- . The public services in relation to the problem of unemployment. *John Hilton*. Pub. Admin. Jan., 1937.
- Spain. La guerre civile en Espagne. *Angel Marraud*. Rev. Sci. Pol. Oct., 1936.
- . How communism attacked Spain. *G. M. Godden*. Catholic World. Jan., 1937.
- . The future of Spain. *Jose Castillejo*. Contemp. Rev. Jan., 1937.
- . Spain's two republics. *W. C. Atkinson*. Dublin Rev. Jan., 1937.
- . Spain: issues behind the conflict. Spain: civil war. *Charles A. Thomson*. For. Policy Rep. Jan. 1, 15, 1937.
- Switzerland. The crisis of Switzerland. *Adolf Grabowsky*. Contemp. Rev. Jan., 1937.

INTERNATIONAL RELATIONS

Books

- Alessandri, Mis*. La guerre et son droit. Pp. 95. Paris: De Boccard. 1936.
- Alvarez, A*. Exposé de motifs et declaration des grands principes du droit international moderne. Pp. 60. Paris: A. Pedone. 1936.
- America's stake in the far east. Pp. 39. N. Y.: Inst. of Pacific Rels. 1936.
- Armstrong, Hamilton Fish*. "We or they"; two worlds in conflict. Pp. 106. N. Y.: Macmillan. 1936.
- Auer, Paul von*. Die Lehren des Konflikts zwischen Italien und dem Völkerbund. Pp. 20. London: Constable. 1936.
- Baker, Newton D*. Why we went to war. Pp. 199. N. Y.: Harper. 1936.
- Benns, F. Lee*. Europe since 1914. Pp. 856. N. Y.: Crofts. 1936.
- Bentwich, Norman, and Others*. Justice and equity in the international sphere. Pp. 59. London: Constable. 1936.
- Booth, Meyrick*. Peace and power; a political pamphlet. London: Commonwealth Press. 1936.
- Brenneisen, Reinhold*. Lettland; das Werden und Wesen einer neuen Volkswirtschaft. Pp. 429. Berlin: Volk und Reich. 1936.
- Brock, C. J. L*. The moral case for free trade. Pp. 27. London: Cobden-Sanders. 1936.
- Brüggenmann, Karl*. Die geistgeschichtlichen Grundlagen des Schutzes völkischer Minderheiten. Pp. 110. Brandenburg: Kettner. 1936.
- Cator, W. L*. The economic condition of the Chinese in the Netherlands Indies. Pp. 275. Chicago: Univ. of Chicago Press. 1936.
- Causton, E. E. N*. Militarism and foreign policy in Japan. Pp. 207. London: Allen & Unwin. 1936.

Chelminski, Ch. Le problème douanier en Pologne. Pp. 242. Paris: Recueil Sirey. 1936.

Clavelin et Jame. Le service de santé militaire du temps de paix et du temps de guerre. Pp. 496. Paris: Charles-Lavauzelle. 1936.

Colegrove, Kenneth W. Militarism in Japan. Pp. 77. Boston: World Peace Found. 1936.

Colin Du Terrail, H. La condition internationale du Soudan anglo-égyptien et du Haut-Nil. Paris: Domat-Montchrestien. 1936.

Cripps, Stafford. The struggle for peace. Pp. 287. London: Gollancz. 1936.

Davies, Lord. Anarchy or peace? Pp. 17. London: Constable. 1936.

Dutt, R. Palma. World politics, 1918-1936. Pp. 389. N. Y.: Random House. 1936.

Ennis, Thomas E. French policy and developments in Indochina. Pp. 230. Chicago: Univ. of Chicago Press. 1936.

Eurich, Alvin C., and Wilson, Elmo C. In 1936. Pp. 600. N. Y.: Henry Holt. 1937.

Friedensburg, Ferdinand. Die mineralischen Bodenschätze als weltpolitische und militärische Machtfaktoren. Pp. 260. Stuttgart: Enke Verlag. 1936.

Fuller, F. J. C. The first of the league wars: its lessons and omens. Pp. 319. London: Eyre & Spottiswoode. 1936.

Grabau, Friederich. Der Gebrauch fremder Nationalflaggen im Seekrieg. Pp. 126. Berlin: Verl. f. Staatswissenschaften u. Geschichte. 1936.

Grattan, C. Hartley. Preface to chaos: war in the making. Pp. 341. N. Y.: Dodge. 1936.

Hall, Ray Ovid. International transactions of the United States. Pp. 230. N. Y.: Nat. Indus. Conf. Board. 1936.

Hartlieb, Wilhelm Walter. Das politische Vertragssystem der Sowjetunion, 1920-1935. Pp. 257. Borna-Leipzig: Noske. 1936.

Hübner, Albert. Die Revision des Vertrags von Versailles unter Berufung auf die Lansingnote vom 5 November 1918. Pp. 50. Wien: Eigenverl. 1935.

Krebs, Hans. Kampf in Böhmen. Pp. 228. Berlin: Volk und Reich. 1936.

Leeuw, A. S. de. Nederland in de wereld Politieck. Pp. 247. Zeist: Torenkrans. 1936.

Lenin, V. I., and Others. Soviet union and the cause of peace. Pp. 192. N. Y.: Int. Pubs. 1936.

Lewis, Wyndham. Left wings over Europe, or how to make a war about nothing. Pp. 333. N. Y.: Peter Smith. 1936.

L'Hoté, Aimé. Renseignements documentaires sur la conférence pour la réduction et la limitation des armements. Pp. 218. Paris: Charles-Lavauzelle. 1936.

Loose, Lothar. Die völkerrechtlichen und politischen Beziehungen Albanien zu Italien und die Frage seiner Unabhängigkeit. Pp. 61. Würzburg: Triltsch. 1936.

Lucas, P. Le statut international des gens de mer. Paris: Domat-Montchrestien. 1936.

Madden, John Thomas, and Others. America's experience as a creditor nation. Pp. 349. N. Y.: Prentice-Hall. 1937.

Magruder, Frank Abbott. National governments and international relations. Pp. 652. Boston: Allyn & Bacon. 1936.

Marguerite, Victor. The league fiasco, 1920-1936. Pp. 296. London: Hodge. 1936.

Mathews, Basil J., ed. East and west; conflict or coöperation? Pp. 206. N. Y.: Assoc. Press. 1936.

McDonald, James G., and Others. What price must we pay for peace? Pp. 32. N. Y.: American Book. 1936.

Middleton, Lamar. The rope of Africa. Pp. 299. London: R. Hale. 1936.

Millis, Walter. Viewed without alarm; Europe today. Pp. 85. Boston: Houghton. 1937.

Holyneaux, Peter. The cotton south and American trade policy. Pp. 63. N. Y.: Nat. Peace Conference. 1936.

Horrov, Ian F. D. The peace settlement in the German-Polish borderlands. Pp. 558. N. Y.: Oxford Univ. Press. 1936.

Cydon, Montell. Juridical bases of diplomatic immunity. Pp. 254. Wash.: John Byrne. 1936.

Fahl, Walther. Die Luftwege der Erde. Pp. 128. Hamburg: Hanseatische Verlagsanstalt. 1936.

Faul, Rodman W. The abrogation of the gentleman's agreement. Pp. 117. Cambridge: Phi Beta Kappa Soc. 1936.

Ferez-Guerrero, Manuel. Les relations des états de l'Amérique Latine avec la société des nations. Pp. 220. Paris: Pedone. 1936.

Flesch, Arpad, and Domke, Martin. Die österreichische Völkerbündnisse. Pp. 143. Zürich: Polygraphischer Verlag. 1936.

Froud, J. C. Rookwood. World peace, the league, and Australia. London: Robertson & Mullens. 1936.

Frischen, Günter. Religionsfreiheit im Völkerrecht. Pp. 78. Quackenbrück: Trute. 1936.

Royal Institute of International Affairs. The future of the league of nations. Pp. 188. N.Y.: Oxford Univ. Press. 1936.

Scavedra Lamas, C. Projet de traité général pour développer les moyens de conserver la paix. Pp. 48. Paris: A. Pedone. 1936.

Sclter, Arthur. Economic policies and peace. Pp. 38. London: Hogarth Press. 1936.

Sclter, Arthur. World trade and its future. Pp. 101. Phila.: Univ. of Penn. Press. 1936.

Scndelmann, Hans. Die diplomatische Vorgeschichte des Chacokonflikts. Pp. 300. Leiden: Sijthoff. 1936.

Scyre, Francis B., and Austin, Warren R. Will reciprocal tariffs promote American recovery? Pp. 32. N.Y.: American Book. 1936.

Scholz, Werner. Die Rechtsverhältnisse der Meerengen und interozeanischen Kanäle im Kriege. Pp. 55. Berlin. 1936.

Schrag, Paul. Internationale Idealvereine. Pp. 221. Bern-Leipzig: Haupt. 1936.

Schuchmann, Walter. Die Lehre von der Clausula Rebus Sic Stantibus und ihr Verhältnis zu Art. XIX des Völkerbündnisses. Pp. 60. Düsseldorf: Nolte. 1936.

Seußler, Ferdinand. De-facto-Anerkennung im Völkerrecht. Pp. 133. Würzburg: Triltsch. 1936.

Schwarzenberger, Georg. The league of nations and world order. Pp. 191. London: Constable. 1936.

Schweiger, Michael. Die völkerrechtlichen Beschränkungen der zivilen Luftfahrt im Frieden mit besonderer Berücksichtigung der deutschen Luftfahrt. Pp. 72. Erlangen-Bruck: Krahle. 1936.

Schwertfeger, Bernhard. Der neue Franko-Russische Zweibund im Lichte französischer Vorkriegsakten. Pp. 70. Potsdam: Athenaeon. 1936.

Sirsonis, Frank H., and Emery, Brooks. The great powers in world politics. Pp. 653. N. Y.: American Book. 1937.

- Slessor, J. C.* Air power and armies. Pp. 251. N. Y.: Oxford Univ. Press. 1936.
- Steed, Henry W.* Vital peace: a study of risks. Pp. 346. N. Y.: Macmillan. 1936.
- Strauss, Emil.* Tschechoslowakische Aussenpolitik. Pp. 164. Prague: Orbis. 1936.
- The soviet union and the cause of peace. Pp. 191. N. Y.: Int. Pubs. 1936.
- Thomas, W. Bryn.* An international police force. Pp. 173. London: Allenson. 1936.
- Urtin, L.* La révision des marchés de guerre. Pp. 140. Paris: Sirey. 1936.
- Wegner, Arthur.* Geschichte des Völkerrechts. Pp. 362. Stuttgart: Kohlhammer. 1936.
- Wengler, Wilhelm.* Studien zur Lehre vom Primat des Völkerrechts. Pp. 322. Wien: J. Springer. 1936.
- Wittmütz, Helga.* Scheidungsverträge nach Bürgerlichem Recht. Pp. 60. Düsseldorf: Nolte. 1936.
- Wlocewski, S.* L'établissement des Polonais en France. Pp. 300. Paris: Libr. Picart. 1936.
- Zadeh, Mostafa M.* La politique de l'Iran dans la société des nations. Pp. 176. Paris: Pedone. 1936.

Articles

- Adjudication. Les affaires de communication devant la cour permanente de justice internationale. *J. Hostie.* Rev. de Droit Int. Oct., 1936.
- . Le problème de la naissance de l'état et la décision du tribunal arbitral mixte germano-polonais du 1^{er} août 1929. *Hans Herz.* Rev. Droit Int. et Légis. Comp. Vol. 17, no. 3. 1936.
- . L'activité de la cour permanente de justice internationale en 1934-1936. *Louis Le Fur.* Rev. Pol. et Parl. Jan., 1937.
- Africa. The betrayal of Ethiopia. *Nancy Cunard.* Modern Rev. Nov., 1936.
- . Le conflit italo-éthiopien. *Ch. Rousseau.* Rev. Gén. de Droit Int. Pub. Sept., 1936.
- . Land tenure among the natives of Bechuanaland protectorate. *I. Shapera.* Zeitschrift f. vergleichende Rechtswissenschaft. Vol. 51, no. 1 and 2. 1936.
- . Egypt signs a treaty. *Pierre Crabitès.* Current Hist. Jan., 1937.
- Air Law. Les pactes d'assistance aérienne. *J. Kroell.* La portée d'application des lois nationales dans les premières conventions internationales de droit privé aérien. *Y. J. Blanc.* Rev. Gén. de Droit Aérien. July, 1936.
- American Foreign Relations. Organizations in the United States interested in Anglo-American relations. *Helen Jean Nolan.* Int. Law and Rels. Dec. 21, 1936.
- . American foreign trade policies. American foreign relations. *Cordell Hull.* Int. Conciliation. Oct., 1936.
- . Is an Anglo-American understanding possible? *Raymond L. Buell.* Int. Affairs. Jan.-Feb., 1937.
- . American policy in the far east. *T. A. Bisson.* For. Policy Rep. Feb. 1, 1937.
- Armaments. The armies of Europe. *Liddell Hart.* For. Affairs. Jan., 1937.
- . Europe's boom in armaments. *Lord Strabolgi.* Current Hist. Feb., 1937.
- British Foreign Policy. British public opinion and foreign policy. *Harold Nicolson.* Pub. Opinion Quar. Jan., 1937.
- . The naval outlook. *Hector C. Bywater.* Nine. Cent. Jan., 1937.
- . The kaiser and English relations. *Dora von Beseler.* Quar. Rev. Jan., 1937.

- . British foreign policy. *Fortune*. Mar., 1937.
- Europe. La vie internationale de la suisse en 1934-1935. *M. B. Clerc*. *Rev. Gén. de Droit Int. Pub.* Sept., 1936.
- . Europe at the crossroads. *Kamil Krofta*. *Int. Conciliation*. Oct., 1936.
- . Le problème de l'Europe centrale et les accords de l'Allemagne avec l'Italie et l'Autriche. *Gabriel Louis-Jaray*. *Rev. Pol. et Parl.* Nov., 1936.
- . The Rome protocols and the question of the Danube basin. *Bull. Int. News*. Nov. 21, 1936.
- . The new Mediterranean problem and its solution. *Usborne*. *Foreign affairs*. *Charles Petrie*. *English Rev.* Dec., 1936. Jan., 1937.
- . The youth of Europe. *Kálmán De Buday*. *Nine. Cent.* Jan., 1937.
- . The foreign policy of Poland. *Augur*. The Dansig problem from within. *J. A. Wilder*. *Slavonic Rev.* Jan., 1937.
- . The Balearic Islands in Mediterranean strategy. *For. Affairs*. Jan., 1937.
- . Why Hitler wants Memel. *Henry C. Wolfe*. The crisis of the little entente. *Hugo de Lahné*. *Current Hist.* Jan., 1937.
- . Berlin and Rome in central Europe. *Gerhard Schacher*. Impressions of central Europe. *Wedgewood Benn*. The reversal in Finland's foreign policy. *W. Walter Crotch*. The military and political strength of the smaller nations. *Otto L. Rusebult*. *Contemp. Rev.* Jan., Feb., 1937.
- . Strategy in the Mediterranean. *B. H. Liddell Hart*. Europe and the Spanish war. *E. H. Carr*. Germany's four-year plan. *F. A. Voigt*. *Fortnightly*. Jan., Feb., 1937.
- . The strategic future of the Mediterranean. *B. H. Liddell Hart*. Transitional politics in Europe. *Alvin Johnson*. *Yale Rev.* Winter, 1937.
- Far East. Japan's dream of world empire. *Alfred E. Pieres*. *Modern Rev.* Dec., 1936.
- . Japan's secret navy. *Fletcher Pratt*. *Am. Mercury*. Jan., 1937.
- . Great Britain's chance in the far east. *O. M. Green*. *Hong Kong. A. M. Mooshead*. *Empire Rev.* Jan., 1937.
- . The crisis in the far east. *E. M. Gull*. *Asiatic Rev.* Jan., 1937.
- . Japanning China. *Willard Price*. *Harper's*. Jan., 1937.
- . Shanghai's white Russians. *E. H. Anstice*. *Contemp. Rev.* Feb., 1937.
- . Japan at sea. *Stuart Lillico*. *Current Hist.* Feb., 1937.
- . Soviet submarines in the far east. *Albert Parry* and *A. Kiralfy*. Is the soviet union's position in the far east only defensive? *W. I. Oudendyk*. *Pacific Affairs*. March, 1937.
- Germany. Has Germany a policy? *F. W. Foerster*. The conditions of a coming conflict in Europe. *Victor W. Germain*. *Nat. Rev.* Dec., 1936.
- . Germany's colonial demands. *Hjalmar Schacht*. *For. Affairs*. Jan., 1937.
- . Hitler against the world. *Wilhelm Pieck*. *The Communist*. Feb., 1937.
- . Hitler looks eastward. *Henry C. Wolfe*. *Atlantic*. Feb., 1937.
- . Germany's colonies. *Curt L. Heymann*. *Current Hist.* Feb., 1937.
- Inter-American Relations. Pan America and the Pan American union. *Fritz Ermarth*. *Int. Law and Relations*. Dec. 5, 1936.
- . The United States and the Inter-American treaties of peace. *Bull. Int. News*. Dec. 19, 1936.
- International Labor Organization. The twenty-first and twenty-second (maritime) sessions of the international labour conference. *Int. Labour Rev.* Jan., 1937.

International Law. Jurisprudence Américaine en matière de droit international (1933-1935). *L. Preuss*. Rev. Gén. de Droit Int. Pub. Sept., 1936.

———. Esquisse d'une histoire littéraire du droit international au moyen âge, du iv^e au xiii^e siècle. *V. E. Hrabar*. Rev. de Droit Int. Oct., 1936.

———. The responsibility of governments and peoples. *Cordell Hull*. Int. Conciliation. Oct., 1936.

———. El torno a la responsabilidad internacional del estado. *G. Velázquez*. Rev. Jurid. de la Univ. de Puerto Rico. Nov.-Dec., 1936.

———. Il principio dell'effettività e la sua funzione nell'ordinamento internazionale (continua). *G. Ottolenghi*. Riv. Diritto Int. Vol. 15, No. 3. 1936.

———. Le droit international et l'histoire contemporaine doivent-ils faire uniquement l'objet d'une étude spécialisée ou servir à la formation générale? *Karl Strupp*. La technique de la personnalité juridique en droit international public et privé. *Charles de Visscher*. Le nouveau pont sur le petit-belt du point de vue du droit international. *Vittorio Favilli*. Rev. Droit Int. et Légis. Comp. Vol. 17, no. 3, 1936.

———. Fifty years of international law. *John Bassett Moore*. Harvard Law Rev. Jan., 1937.

———. Contribution of American judiciary to the maintenance of international law. *Fred K. Nielsen*. Am. Bar Assoc. Jour. Jan., 1937.

International Trade and Finance. Les douanes aériennes. *M. Le Goff*. Rev. Gén. de Droit Aérien. July, 1936.

———. International monetary agreement. The consequences of economic nationalism. *Lionel Robbins*. World economic progress. Int. Conciliation. Dec., 1936.

———. Claims to colonies, markets, and raw materials. *Emanuel Moresco*. Internationale Bergwirtschaftspolitik. *Ferdinand Friedensburg*. New Commonwealth Quar. Dec., 1936.

———. La dévaluation et les emprunts internationaux. *Joseph Hamel*. Pourquoi revenir à l'or? *Alfred Lansburgh*. Rev. Pol. et Parl. Dec., 1936. Jan., 1937.

———. Japan's trade with the Netherlands Indies. *John C. Le Clair*. For. Affairs. Jan., 1937.

———. Can Russia compete industrially? *S. S. Visser*. Social Science. Jan., 1937.

———. Problems of the international distribution of population and raw materials. *Corrado Gini*. Annals. Jan., 1937.

———. The end of the gold bloc. *Walter Layton*. Int. Affairs. Jan.-Feb., 1937.

———. The trade agreements act of 1934. *Yale Law Rev.* Feb., 1937.

———. Japan in world economics. *Emil Lederer*. Soc. Research. Feb., 1937.

———. Prospects for foreign trade. *W. Y. Elliott*. Va. Quar. Rev. Winter, 1937.

Intervention. La guerre civile d'Espagne et le droit international. *Louis Le Fur*. Rev. Pol. et Parl. Dec., 1936.

———. Spain and the policy of non-intervention. *Bull. Int. News.* Dec. 5, 1936.

———. British experiments in state intervention. *Raymond G. Swing*. For. Affairs. Jan., 1937.

———. Russia's private war in Spain. *Lawrence Dennis*. Am. Mercury. Feb., 1937.

League of Nations. New league or no league. *Lord Lothian*. Alexander Hamilton and the reform of the league. *L. P. Jacks*. A demilitarized league of nations. *L. P. Jacks*. Int. Conciliation. Dec., 1936.

Mandates. Colonies, mandates, and Germany. *Norman Bentwich*. New Commonwealth Quar. Dec., 1936.

———. I modi di risoluzione dei mandati internazionali. *M. Mieli*. Riv. Diritto Int. Vol. 15, no. 3. 1936.

———. The problem of the cessation of mandated territories. *L. S. Amery*. Int. Affairs. Jan.-Feb., 1937.

Neutrality. La Belgique retourne à la neutralité. *A. de La Pradelle*. Rev. de Droit Int. Oct., 1936.

———. La législation sur la neutralité aux États-Unis. *Clyde Eagleton*. Rev. Droit Int. et Légis Comp. Vol. 17, no. 3. 1936.

———. Neutrality and peace: the view of a small power. *Haldan Koht*. For. Affairs. Jan., 1937.

———. Neutrality revision before congress. *Elton Atwater*. Int. Law and Rels. Jan. 19, 1937.

———. International coöperation for neutrality. *Charles C. Hyde*. Univ. of Penn. Law Rev. Feb., 1937.

———. Neutrality—as of 1936 and 1937. *Phillips Bradley*. Am. Pol. Sci. Rev. Feb., 1937.

Pacific. The changing balance of forces in the Pacific. *Hu Shih*. For. Affairs. Jan., 1937.

———. Changing forces in the Pacific. *A. V. Alexander*. Searchlights on the Pacific. *G. E. Hubbard*. Int. Affairs. Jan.-Feb., 1937.

Sanctions. How sanctions failed. *M. J. Bonn*. For. Affairs. Jan., 1937.

Spain. The Spanish rebellion and international law. *Philip C. Jessup*. For. Affairs. Jan., 1937.

———. European diplomacy in the Spanish crisis. *Vera Micheles Dean*. For. Policy Rep. Dec. 1, 1936.

Traffic in Arms. The American and British munitions investigations. *William O. Scruggs*. For. Affairs. Jan., 1937.

Treaties. La sainteté des traités. *J. B. Whitton*. Rev. de Droit Int. Oct., 1936.

———. Contribution à la théorie du traité international. *Hans Kelsen*. Rev. Int. Théorie du Droit. Vol. 10, no. 4. 1936.

———. Incidences politiques des traités franco-syrien et franco-libanais. *Georges Meyer*. Rev. Pol. et Parl. Jan., 1937.

War and Peace. World police for world peace. *Viscount Allenby*. Int. Conciliation Oct., 1936.

———. La garantie des risques de guerre. *John Paul Gouars*. Rev. Pol. et Parl. Nov., 1936.

———. La sécurité collective et la non-ingérence. *Albert de la Pradelle*. New Commonwealth Quar. Dec., 1936.

———. Compulsory territorialism. *G. G. Coulton*. Quar. Rev. Jan., 1937.

———. Charting America's news of the world war. *H. Schuyler Foster, Jr.* For. Affairs. Jan., 1937.

———. The prospect for 1937. *Wilfrid Hindle*. Dalhousie Rev. Jan., 1937.

———. Education and war. *A. Romney Green*. Contemp. Rev. Jan., 1937.

———. How to stay out of war. *Symposium*. How to stay out of war. *Frances Newton*. Forum. Feb., Mar., 1937.

———. Population and conquest. *Freda Ulley*. Pacific Affairs. March, 1937.

JURISPRUDENCE

Books

- Bell, Marjorie*, ed. Yearbook of the national probation association, 1936. Pp. 440. N.Y.: Nat. Probation Assoc. 1936.
- Bicker, Karl*. Das Verhältnis von Staatsvertragsrecht und Vertragsgesetzesrecht nach deutschem Reichsrecht. Pp. 63. Marburg: Fischer. 1936.
- Bonger, W. A.* An introduction to criminology. Pp. 189. London: Methuen. 1936.
- Blaese, Hermann*. Bedeutung und Geltung des römischen privatrechts in den baltischen Gebieten. Pp. 76. Leipzig: Weicher. 1936.
- Bryan, William A.* Administrative psychiatry. Pp. 349. N.Y.: Norton. 1936.
- Capitant, Henri*. Vocabulaire juridique. Pp. 530. Paris: Presses universitaires de France. 1936.
- Gavit, Bernard C.* Cases and materials on an introduction to law and the judicial process. Pp. 633. Chicago: Callaghan. 1936.
- Kalmer, Leo*, and *Weir, Eligius*. Crime and religion. Pp. 299. Chicago: Franciscan Herald Press. 1936.
- Kenny, Courtney Stanhope*. Outlines of criminal law: based on lectures delivered in the University of Cambridge. Pp. 669. London: Cambridge Univ. Press. 1936.
- Lallemant, P.* Le recrutement des juges. Paris: Domat-Montchrestien. 1936.
- Locard, Edmond*. Traité de criminalistique. 6 vols. Paris: J. Desvigne et Cie. 1936.
- McKelvey, Blake*. American prisons. Pp. 256. Chicago: Univ. of Chicago Press. 1936.
- Perrot, E.*, et *Levet, A.* Précis élémentaire de droit romain. Pp. 520. Paris: Sirey. 1936.
- Slessor, Henry*. The law. Pp. 211. N. Y.: Longmans. 1936.
- Young, Pauline Vislick*. Social treatment in probation and delinquency. Pp. 682. N. Y.: McGraw-Hill. 1937.

Articles

- Arrest. Criminal procedure; use of force in making arrest. *John L. Davis*. Ky. Law Jour. Jan., 1937.
- . The law of arrest in North Carolina. *Albert Coates*. N. C. Law Rev. Feb., 1937.
- Blackstone. An unwritten biography. *Homer H. Cooper*. Am. Bar Assoc. Jour. Jan., 1937.
- Comparative Law. Comparative law and the law merchant. *Philip W. Thayer*. Brooklyn Law Rev. Dec., 1936.
- . Romantisme et droit civil. *J. Bonnet*. Rev. Gén. Droit Legis. et Juris. July-Sept., 1936.
- . La idea de la moral en el derecho civil. *A. Ossorio y Gallardo*. Rev. Jurid. de la Univ. de Puerto Rico. Sept.-Oct., 1936.
- . The struggle between equity and stability in the law of post-war Germany. *Max Rheinstein*. Univ. of Pittsburgh Law Rev. Dec., 1936.
- . Die sozialen Einheiten und der Staatsbegriff im bulgarischen Sprachgebrauch und Gewohnheitsrecht. *Leo Barbar*. Zeitschrift f. vergleichende Rechtswissenschaft. Vol. 51, nos. 1 and 2. 1936.
- . Die Stellung des Solicitors und Barristers im englischen Rechtsleben. *Gerhard Kempt*. Archiv öffent. Rechts. Vol. 28, no. 1. 1936.

- . The inter-relation of the legal systems of Scotland and England. *A. D. Gibb. Law Quar. Rev. Jan., 1937.*
- Conflict of Laws. Codification of private international law. *Stephen Latchford. Fed. Bar Assoc. Jour. Oct., 1936.*
- Crime. Crime as a profession. *Fletcher Pratt. Am. Mercury. Feb., 1937.*
- Criminal Law. Criminal law in the third Reich. *E. A. Wedderburn. Juridical Rev. Dec., 1936.*
- . Felony murder in New York. *T. L. J. Corcoran. Fordham Law Rev. Jan., 1937.*
- . The substantive law of crimes, 1887-1936. *Livingston Hall. Indeterminate sentence laws: the adolescence of peno-correctional legislation. Harvard Law Rev. Feb., 1937.*
- . Die staatspolitische Bedeutung der Ausländerkriminalität. *Max Julier. Archiv öffent. Rechts. Vo., 28, no. 1. 1936.*
- Delinquency. Report of delinquency situation among negroes in Richmond. *Joseph T. Hill. Va. Munic. Rev. Dec., 1936.*
- . The Borstal system. *R. T. Stephens. Nine. Cent. Feb., 1937.*
- Judicial Lawmaking. Doctrine of *stare decisis*. *J. Lester Mee. John Marshall Law Rev. Dec., 1936.*
- . The courts as sociologists. *Edward T. Hartman. Social Forces. Dec., 1936.*
- . The future of our judicial system of stating and developing law. *William D. Lewis. Va. Law Rev. Jan., 1937.*
- . Interpretation reinterpreted. *Robert J. Farley. Tulane Law Rev. Feb., 1937.*
- Judiciary. The judicial system of Latvia. *Alfred Bilmanis. Fed. Bar Assoc. Jour. Oct., 1936.*
- . Federal removal confusion. *L. C. Andrews. Miss. Law Jour. Dec., 1936.*
- . The work of the Wisconsin supreme court for the August, 1935, and January, 1936, terms. *Joseph G. Werner and Others. Wis. Law Rev. Dec., 1936.*
- . Removal of federal judges; a proposed plan. III. *Law Rev. Jan., 1937.*
- . An appointed judiciary—its place in the balance of government. *Robert N. Wilkin. Basic propositions relating to judicial selection. J. P. Wood. What experience has shown as to elective method of choosing judges. C. M. Thompson. Am. Bar Assoc. Jour. Jan., Feb., 1937.*
- Jurisprudence. Fifty years of jurisprudence. *Roscoe Pound. Harvard Law Rev. Feb., 1937.*
- . The language of the law. *J. Melville Broughton. Commercial Law Jour. Feb., 1937.*
- . What is the common law? *Roscoe Pound. Looking behind the letter of the law. John H. Wigmore. Univ. of Chicago Law Rev. Feb., 1937.*
- Jury. Trial by jury in modern continental criminal law. *Law Quar. Rev. Jan., 1937.*
- Justinian. The great law-giver, Justinian. *William R. Riddell. Am. Bar Assoc. Jour. Jan., 1937.*
- Law Enforcement. Science in law enforcement. *John Edgar Hoover. Tenn. Law Rev. Dec., 1926; N. Y. State Bar Assoc. Bull. Jan., 1937.*
- . Changes in the administration of criminal justice during the past fifty years. *Sam B. Warner and Henry B. Cabot. Harvard Law Rev. Feb., 1937.*

Legal Philosophy. L'homo juridicus et l'insuffisance du droit comme règle de la vie. *G. del Vecchio*. Rev. Gén. Droit Légis. et Juris. July, 1936.

———. Contributo allo studio dei rapporti tra diritto e teologia. *G. Renard*. Il concetto di rapporto nella scienza e nella filosofia del diritto. *A. P. d'Entreves*. Riv. Int. di Filos. del Diritto. Nov.-Dec., 1936.

———. Die heutigen Strömungen in der Rechtswissenschaft. *Robert Goldschmidt*. Rev. Int. Théorie du Droit. Vol. 10, no. 4. 1936.

———. More functional nonsense: reply to Felix S. Cohen. *Walter B. Kennedy*. Fordham Law Rev. Jan., 1937.

———. Law teaching and pragmatism. *Carl C. Wheaton*. Georgetown Law Rev. Jan., 1937.

Mansfield. Lord Mansfield and English dissenters. *Charles F. Mullett*. Mo. Law Rev. Jan., 1937.

Pardon. Abolish the pardon board. *W. Scott Stewart*. John Marshall Law Quar. Dec., 1936.

Penology. A study of publications in national and state penal and correctional institutions in the United States. *Isabelle Kellock Coulter*. Social Forces. Dec., 1936.

———. A test for democracy. *Claude Mullins*. Quar. Rev. Jan., 1937.

———. Keep your convicts. *Christopher Rollman*. Forum. Feb., 1937.

Procedure. The old régime and the new in civil procedure. *R. W. Millar*. N. Y. Univ. Law Quar. Rev. Nov., 1936, Jan., 1937.

———. Procedural aspects of litigation under the public utility holding company act. Harvard Law Rev. Feb., 1937.

———. Review of findings of fact. *C. E. Clark* and *F. F. Stone*. Findings of facts and conclusions of law in cases where juries are waived. *E. R. Sunderland*. Facts and statements of fact. *W. W. Cook*. Univ. of Chicago Law Rev. Feb., 1937.

Racketeering. Racketeering, an American institution. *Jesse W. Brodey*. Social Science. Jan., 1937.

LOCAL GOVERNMENT

Books

Barton, J. T. Municipal public reporting in Texas. Pp. 98. (Univ. of Texas Bull. no. 3627). Austin (Tex.). Univ. of Tex. 1936.

Clarke, John J. Outlines of local government of the United Kingdom. Pp. 360. London: Pitman. 1936.

Crew, Albert, and Miles, E. The conduct of and procedure at public, company, and local government meetings. Pp. 465. London: Jordan. 1936.

Fink, Georg. Die Wette und die Entwicklung der Polizei in Lübeck. Pp. 209-237. Lübeck: Rahtgens. 1934.

Hohrmann, Friedrich. Die freie Hansestadt Bremen im dritten Reich. Pp. 73. Würzburg: Mayr. 1936.

Holl, Hans. Das Verhältnis von Partei und Stadt in Bezug auf die Gemeinde. Pp. 60. Düsseldorf: Nolte. 1936.

Lancaster, Lane W. Government in rural America. N. Y.: Van Nostrand. 1937.

Marshall, A. H. Local authorities: internal financial control. London: Inst. of Pub. Admin. 1936.

Martin, Roscoe C. Urban local government in Texas. Pp. 357. (Univ. of Texas Bull. no. 3637.) Austin (Tex.). Univ. of Tex. 1936.

Millard, Oscar E. Burgomaster Max. Pp. 287. London: Hutchinson. 1936.

Pfeffer, Karl Heinz. Die bürgerliche Gesellschaft in Australien. Pp. 479. Berlin: Junker & Dünhaupt. 1936.

Articles

China. The dragnet of local government in China. *Norman D. Hanwell.* Pacific Affairs. March, 1937.

Cincinnati. Three Cincinnati elections. *Henry Bentley.* Nat. Munic. Rev. Jan., 1937.

City. Rubbing elbows with municipal officials. *Edward H. Ruehl.* Va. Munic. Rev. Nov., 1936.

———. Social characteristics of cities. *William F. Ogburn.* Pub. Management. Jan., Feb., 1937.

———. Recording urban residential mobility. *William Albig.* Sociol. and Soc. Research. Jan.-Feb., 1937.

———. How shall we run our cities? *Murray Seasongood.* Scribner's. Feb., 1937.

City Manager. City managers. Local Govt. Admin. Dec., 1936.

County. Reorganization of county government upon council-manager plan. *Estes Kefauver.* Tenn. Law Rev. Feb., 1937.

———. A home rule charter for Nassau county, New York. *Alfred D. Olena.* Nat. Munic. Rev. Feb., 1937.

———. Consolidated county expenditures for selected health services. *W. Frank Walker* and *Louis Feldman.* Am. Jour. of Pub. Health. Feb., 1937.

England. L'évolution du gouvernement local en Angleterre. *Paul Vaucher.* Rev. Sci. Pol. Oct., 1936.

———. The London passenger transport board. *John A. Fairlie.* Nat. Munic. Rev. Jan., 1937.

———. London—one-fifth of the nation. *G. D. H. Cole.* Fortnightly. Jan., 1937.

Federal Relations. Municipalities and the federal works program. *Gladys Ogden.* Nat. Munic. Rev. Feb., 1937.

Finances. Control of bondholders' protective committees. *George H. Dession.* Bondholders' protective committees and municipal credit. *Robert F. Denison.* Nat. Munic. Rev. Jan., 1937.

———. Municipal improvements as affected by constitutional debt limitations. *C. Dickerman Williams* and *Peter R. Nchemkis, Jr.* Columbia Law Rev. Feb., 1937.

Housing. A housing shortage faces our cities. *Coleman Woodbury.* Pub. Management. Jan., 1937.

Inter-Governmental Relations. Unions of towns. Local Govt. Admin. Dec., 1936.

———. City-county contractual relationships. *Frank M. Stewart.* Pub. Management. Jan., 1937.

Ireland. The city manager plan in the Saorstát Éireann. *Arthur W. Bromage.* Nat. Munic. Rev. Feb., 1937.

Labor. What is the city's rôle in labor disputes? *Donald C. Stone.* What a strike means to a police department. *Arnold Miles.* Pub. Management. Feb., 1937.

New York. Transit unification in New York. *J. B. Walker.* Pub. Util. Fort. Feb. 18, 1937.

Personnel. Some personnel problems of city managers. Labor unions in fire departments. *George J. Richardson.* Pub. Management. Jan., 1937.

———. American universities and training for local administration. Training of local government officials. Local Govt. Admin. Dec., 1936.

Police. Police organization and administration. *O. W. Wilson*. Nat. Munic. Rev. Dec., 1936.

Research. The future of the municipal research bureau. *Howard G. Fishack*. Nat. Munic. Rev. Dec., 1936.

Standards. Technique of appraising standards. *Clarence E. Ridley* and *Herbert A. Simon*. Pub. Management. Feb., 1937.

Taxation. Comparative tax rates of 259 cities, 1936. *Rosina Mohaupt*. Nat. Munic. Rev. Dec., 1936.

Township. Township surveys in the Iowa country. *Jacob A. Swisher*. Iowa Jour. of Hist. and Pol. Jan., 1937.

Welfare. Experience in county public welfare organization and administration as a basis for planning in Illinois. *B. F. Timmons*. Social Forces. Dec., 1936.

POLITICAL THEORY AND MISCELLANEOUS

Books

Ancel. Dogme et morale communistes. Pp. 94. Paris: Ed. F. N. C. 1936.

Backer, Ernest. Education for citizenship. London: Oxford Univ. Press. 1936.

Beard, Charles A. Jefferson, corporations, and the constitution. Pp. 94. Wash.: Nat. Home Lib. Found. 1936.

Benoist, Charles. La crise de l'état moderne. Pp. 176. Paris: Plon. 1936.

Bradford, Frederick Alden. Money and banking. Pp. 854. N. Y.: Longmans. 1936.

Brehmer, Robert G., Jr. Social doctrines of the Catholic church. Pp. 141. N. Y.: Putnam. 1936.

Brosche, Karl. Schleiermachers Ansichten über Volk, Staat und Volkserziehung. Pp. 135. Helmstedt: Kühne. 1936.

Chamberlain, Austen. Politics from inside; an epistolary chronicle, 1906-1914. London: Cassell. 1936.

Coulter, Edith M., and Gerstenfeld, Melanie. Historical bibliographies. Pp. 206. Berkeley: Univ. of Calif. Press. 1935.

Dendias, Michel. La fonction gouvernementale et les actes de son exercice. Pp. 88. Paris: De Boccard. 1936.

Explorations in economics. Pp. 539. N. Y.: McGraw-Hill. 1937.

Fay, C. R. Coöperation at home and abroad; description and analysis. Pp. 464. London: King. 1936.

Fisher, R. A. Statistical methods for research workers. Pp. 352. London: Oliver & Boyd. 1936.

Gough, J. W. The social contract; a critical study of its development. Pp. 234. London: Clarendon. 1936.

Gross-Fengels, Kurt. Der Streit um den Rechtsstaat. Pp. 50. Düsseldorf: Nolte. 1936.

Hart, Kenneth Darius. Visualized problems of American democracy. Pp. 352. N. Y.: Oxford Book Co. 1936.

Henri, Comte de Paris. Le prolétariat. Paris: Oeuvres françaises. 1936.

Hughes, Ray Osgood. Building citizenship. Pp. 778. Boston: Allyn & Bacon. 1936.

Jacobsen, Gertrude A., and Lipman, Miriam H. An outline of political science. Pp. 232. N. Y.: Barnes & Noble. 1937.

Konder, Marcos. Demokratie, Integralismus und Kommunismus. Pp. 52. Blumenau: Koehler. 1936.

La Farge, John. Communism and the catholic answer. Pp. 32. N. Y.: America Press. 1936.

Larson, Henrietta M. Jay Cooke, private banker. Pp. 529. Cambridge (Mass.): Harvard Univ. Press. 1936.

Leibbrandt, Gottlieb. Stand, Staat und Volk. Pp. 107. Leipzig und Wien: Deuticke. 1935.

Lenin, V. I. Marx-Engels Marxism; a collection of articles. Pp. 242. London: Lawrence & W. 1936.

Lewis, John. Douglas fallacies; a critique of social credit. Pp. 136. London: Chapman and Hall. 1936.

Lin, Yutang. A history of the press and public opinion in China. Pp. 179. N. Y.: G. E. Stechert. 1936.

Linebarger, Paul M. A. The political doctrines of Sun Yat-sen. Pp. 292. Baltimore: Johns Hopkins Press. 1936.

Locke, John. Treatise of civil government, and a letter concerning toleration. Pp. 239. N. Y.: Appleton-Century. 1937.

MacLean, Kenneth. John Locke and English literature of the eighteenth century. Pp. 184. New Haven (Conn.): Yale. 1936.

Madariaga, de Salvador. Anarchie ou hiérarchie. Pp. 222. Paris: Nouvelle Revue Française. 1936.

Marx, Karl. Karl Marx, selected works in two volumes. Vol. 1. Pp. 503. N. Y.: Int. Pubs., 1936.

Maspétiol, R. L'état et son pouvoir. Pp. 118. Paris: A. Pedone. 1936.

Maurier, R. Sociologie coloniale (psychologie des expansions.) Paris: Domat-Montchrestien. 1936.

Mer, G. La réforme de l'état en action. Pp. 148. Paris: Sirey. 1936.

Merriam, Charles Edward. Role of politics in social change. Pp. 149. N. Y.: N. Y. Univ. Press. 1936.

Mueller, Gustav E. What Plato thinks. Pp. 128. La Salle (Ill.): Open Ct. Pub. Co. 1937

Nail, H. L'idée de l'état chez les précurseurs de l'école sociologique française. Paris: Domat-Montchrestien. 1936.

Neelteship, Richard Lewis. Lectures on the Republic of Plato. Pp. 364. London: Macmillan. 1936.

Falm, Franklin C. The middle classes then and now. Pp. 421. N. Y.: Macmillan. 1936.

Fatterson, S. Howard, and Scholz, Karl W. H. Economic problems of modern life. Pp. 800. N. Y.: McGraw-Hill. 1937.

Filip, André. Trade unionisme et syndicalisme. Pp. 348. Paris: F. Aubier. 1936.

Flekhanov, G. Fundamental problems of Marxism. Pp. 156. London: Lawrence & W. 1936.

Kaup, Robert Bruce. Education and organized interests in America. Pp. 238. N. Y.: Putnam. 1936.

Rosen, S. McKee. Modern individualism; the development of political thought and its present crisis. Pp. 183. N. Y.: Harper. 1937.

Skates, Walter B. Townsendism, Coughlinism, or communism; the important issue of today. Pp. 101. Zanesville (O.): Author. 1936.

Scutlery Political Science Association. Proceedings of the ninth annual session, 1936. Pp. 35. No imprint.

Stachey, Evelyn John St. Loe. The theory and practice of socialism. Pp. 512. N. Y.: Random House. 1936.

Strauss, Leo. The political philosophy of Hobbes; its basis and its genesis. Pp. 172. London: Oxford Univ. Press. 1936.

Taussig, Frank W. Explorations in economics; notes and essays. Pp. 551. N. Y.: McGraw-Hill. 1937.

Taylor, Griffith. Environment and nation. Pp. 571. Chicago: Univ. of Chicago Press. 1936.

Thompson, Dorothy, and Others. Public opinion and the town meeting idea. Pp. 33. N. Y.: American Book. 1936.

Werner, Arthur. Eduard Beneš: Der Mensch und der Staatsmann. Pp. 246. Prague: Roland Verlag Morawitz. 1936.

Whitehead, Thomas N. Leadership in a free society. Pp. 281. Cambridge (Mass.): Harvard. 1936.

Wilson, Walter. American legion and civil liberty. Pp. 32. N. Y.: Am. League Against War and Fascism. 1936.

Zitzlaff, Helmut. Der politische Dienst. Pp. 58. Dahme (Mark): Wätzrig. 1936.

Articles

Americanization. A problem in Americanization. *Helen E. Laird.* Jour. of Educ. Sociol. Jan., 1937.

Archives. New Indiana archival documents. *Harvey Wish.* Ind. Mag. Hist. Dec., 1936.

———. The federal archives of New York City. *Richard B. Morris.* Am. Hist. Rev. Jan., 1937.

Areas. Localism, regionalism, and centralization. *Louis Wirth.* Am. Jour. of Sociol. Jan., 1937.

Authority. The prelude to authority. *Francis G. Wilson.* Am. Pol. Sci. Rev., Feb., 1937.

Capitalism. Capitalism and the church. *Jerome Davis.* Harper's Jan., 1937.

———. The unique millionaire. *O. G. Villard.* Forum. Jan., 1937.

———. A platform in search of a party. *Walter F. Crowder.* Social Science. Jan., 1937.

———. Coöperative checks on capitalism. *William and Kathryn Cordell.* So. Atlan. Quar. Jan., 1937.

———. The correct economy for the machine age. *A. G. McGregor.* Nine. Cent. Jan., 1937.

———. A return to feudalism. *Ralph A. Cram.* A debate on distributism. *Bernard Shaw and Hilaire Belloc.* Am. Rev. Jan., 1937.

———. The war of the machines. *D. Marshall.* Catholic World. Jan., Feb., 1937.

———. Planning for totalitarian monopoly. *Frank Albert Petter.* Jour. of Pol. Econ. Feb., 1937.

Church and State. La collisione delle norme tra autorità statale e autorità religiosa. *Adolf Merkl.* Riv. Int. di Filos. del Diritto. Nov.-Dec., 1936.

———. Rome and anti-Rome. *Don Luigi Sturzo.* Dublin Rev. Jan., 1937.

———. Church and state in England. *E. P. Chase.* Am. Pol. Sci. Rev. Feb., 1937.

Contemporary Politics. The state and the social process. *Sydney Smith.* Miss. Law Jour. Dec., 1936.

———. Speed in politics. *Augur.* Nat. Rev. Jan., 1937.

———. The relation of the individual to the state. *William E. Rappard.* Annals. Jan., 1937.

———. Piecemeal collectivism. *Walter Lippmann.* Atlantic. Feb., 1937.

- . Wars of ideas. *Herbert Samuel*. Nine. Cent. Feb., 1937.
- Coöperation.** Coöperatives: consumer or producer? *E. D. Haliburton*. Dalhousie Rev. Jan., 1937.
- . Coöperation. *Rexford Guy Tugwell*. Current Hist. Feb., 1937.
- . Consumer coöperatives. *Fortune*. Mar., 1937.
- Corporate State.** Notes sur le corporatisme. *N. P. Perdreux*. Rev. Sci. Pol. Oct., 1936.
- Democracy.** Dictators or democracy? *D. Graham Pole*. Modern Rev. Dec., 1936.
- . The nemesis of democracy. *Ralph A. Cram*. Am. Rev. Dec., 1936.
- . Democracy today. *F. J. C. Hearnshaw*. Nat. Rev. Dec., 1936.
- . De Tocqueville's appraisal of democracy—then and now. *Harold W. Stokes*. So. Atlan. Quar. Jan., 1937.
- . Democracy in primitive society. *J. Brewton Berry*. Social Science. Jan., 1937.
- . Divine democracy. *W. G. Peck*. Criterion. Jan., 1937.
- . The crisis of democracy. *B. K. Sandwell*. Dalhousie Rev. Jan., 1937.
- Dictatorship.** Modern dictatorships; will they survive? *Charles Pergler*. World Affairs. Dec., 1936.
- Fascism.** Faschismus und Staat. *Giuseppi Lo Verdi*. Archiv. f. Rechts und Sozialphilosophie. Jan., 1937.
- . The fascist international. *G. E. R. Gedy*. Fortnightly. Feb., 1937.
- Freedom.** Freedom in the modern world. *Edward A. Ross*. Am. Jour. of Sociol. Jan., 1937.
- History.** The political interpretation of history. *Arthur N. Holcombe*. Am. Pol. Sci. Rev. Feb., 1937.
- Hobbes.** Philosophie der Strafe bei Thomas Hobbes. *Gerhard Ledig*. Rev. Int. Théorie du Droit. Vol. 10, No. 4. 1936.
- Individualism.** A plea for individualism. *Stefan Hock*. English Rev. Dec., 1937.
- Labor.** L'état et les conflits collectifs du travail. Rev. Pol. et Parl. Nov., 1936.
- Lenin.** Lenin: thirteen years after. *A. Markoff*. Lenin and Spain. *Earl Browder*. The Communist, Feb., 1937.
- Liberalism.** The dispute between catholicism and liberalism in the early decades of capitalism. *Goetz Briefs*. Soc. Research. Feb., 1937.
- . Liberalism and faith. *Roger Lloyd*. Contemp. Rev. Feb., 1937.
- Livingston.** Concerning the historic importance of Edward Livingston. *Mitchell Franklin*. Tulane Law Rev. Feb., 1937.
- Marx.** What Marx means today. *Edward Heimann*. Soc. Research. Feb., 1937.
- Measurement.** The measurement of social attitudes. *A. C. Rosander*. Social Studies. Feb., 1937.
- Morals.** La morale et l'obligation civile, au sujet de la 3^e éd. de l'ouvrage de M. Eipert. *B. Blagoyévitch*. Rev. Gén. Droit Légis. et Juris. July, 1936.
- . The relation between ethics and political science. *Charner Perry*. Int. Jour. of Ethics. Jan., 1937.
- Planning.** Planning in an economy of abundance. *Waller Lippmann*. Atlantic. Jan., 1937.
- . Freedom and social planning. *Hans Speier*. Is planning compatible with democracy? *Bushrod W. Allin*. Am. Jour. of Sociol. Jan., 1937.
- Poverty.** Poverty and unemployment. *Percy Harris*. Contemp. Rev. Feb., 1937.
- Press.** A muzzle on critics. *V. S. Pritchett*. Fortnightly. Jan., 1937.
- . Le projet contre la presse. *Joseph Barthélemy*. Rev. Pol. et Parl. Jan., 1937.

———. Letters to the editor as a means of measuring the effectiveness of propaganda. *H. Schuyler Foster, Jr. and Carl J. Friedrich*. British influence on the American press, 1914-17. *H. C. Peterson*. *Am. Pol. Sci. Rev.* Feb., 1937.

Public Opinion. Collective public opinion. *Robert Borden*. *Int. Conciliation*. Dec., 1936.

———. Toward a science of public opinion. *Floyd H. Allport*. Press, radio, and the Spanish civil war; new frontiers in radio. *O. W. Riegel*, ed. *Pub. Opinion Quar.* Jan., 1937.

———. Propaganda in the films. *A. Calder-Marshall*. *Life and Letters Today*. Winter, 1936-37.

Radicalism. Left wing discontents. *D. W. Brogan*. *Fortnightly*. Feb., 1937.

Radio. Editorial policies of broadcasting companies. *Merrill Denison*. *Pub. Opinion Quar.* Jan., 1937.

Revolution. Two silent revolutions. *Collin Brooks*. *English Rev.* Jan., 1937.

———. State and revolution in the Paris commune, the Russian revolution, and the Spanish civil war. *F. Borkenau*. *Sociological Rev.* Jan., 1937.

Rule of Law. The rule of law and the American revolution. *R. A. Humphreys*. *Law Quar. Rev.* Jan., 1937.

Socialism. The degeneration of socialism. *A. J. Penty*. *Am. Rev.* Dec., 1936.

Straw Polls. Straw polls in 1936. *Archibald M. Crossley*. How accurate were the polls? *Harold F. Gosnell*. *Pub. Opinion Quar.* Jan., 1937.

Taxation. Taxation as an instrument of social control. *Clarence Heer*. *Am. Jour. of Sociol.* Jan., 1937.

———. Wealth, benevolence, and social taxation. *Victor S. Yarros*. *Am. Federationist*. Feb., 1937.

Teaching. A critique of poor college lecturing. *James D. Weinland*. *Jour. of Educ. Sociol.* Jan., 1937.

———. Academic freedom and the law. *Yale Law Jour.* Feb., 1937.

GOVERNMENT PUBLICATIONS

MILES O. PRICE

Law Library, Columbia University

AMERICAN

UNITED STATES

Civil Service Commission

Political activity and political assessments of federal officeholders and employees. Washington: Govt. Ptg. Off., 1936. 22 p.

Congress

House of Representatives. Civil service preference, retirement, and salary classification laws (Feb. 25, 1919-June 30, 1936); compiled by Elmer A. Lewis, superintendent Document Room, House of Representatives. Washington: Govt. Ptg. Off., 1936. 231 p.

———. *Internal revenue taxation, joint committee.* Taxing power of federal and state governments, report to joint committee on internal revenue taxation, pursuant to sec. 1203(b) (6), revenue act of 1926. Washington: Govt. Ptg. Off., 1936. 125 p. (This report has been ordered printed for purposes of information and discussion, but has not yet been considered or approved by the committee or any member thereof.)

Senate. Veto messages, record of bills vetoed and action taken thereon by Senate and House of Representatives, 51st Congress to 74th Congress, 1889-1936; printed for use of Office of Secretary of Senate. Washington: Govt. Ptg. Off., 1936. 65 p. (Corrected print.)

——— Comparison of political and civil rights of men and women in United States, statement interpreting laws of United States with respect to political and civil rights of women compared to political and civil rights of men, compiled by Inter-American Commission of Women, and presented for action by 7th International Conference of American States. Washington: Govt. Ptg. Off., 1936. 249 p. (S. Doc. 270, 74th Cong. 2d. sess.).

Government Printing Office

Documents office. Political science, documents and debates relating to government, lobbying, elections, liquor, political parties, District of Columbia, list of publications for sale by superintendent of documents. Washington: Govt. Ptg. Off., 1936. 38 p. (Price list 54, 22d edition.)

Labor Department

Labor standards division. Reports of committees and resolutions adopted by 3d National Conference on Labor Legislation, Nov. 9-11; 1936. Washington: Govt. Ptg. Off., 1936. 39 p.

Library of Congress

Bibliography division. List of references on civil service and personnel administration in the United States: federal, state, and local; compiled by Ann Duncan Brown. Washington, 1936. 91 p. (processed).

Naval War College

International law situations, with solutions and notes, 1935. Washington: Govt. Ptg. Off., 1936. 134 p. (This year's situations have to do with vessels and neutral ports, action during civil strife, and aircraft and hospital ships.)

Resettlement Administration

Legislative history of emergency relief appropriation act of 1936; prepared in Legislative Research Office, Office of General Counsel. Washington, 1936. xxx, 299 p. (processed).

State Department

List of treaties submitted to the Senate, 1936. Procedure during 1936 on, and status of, certain treaties submitted to the Senate, 1923-1936. Washington: Govt. Ptg. Off., 1937, 8 p.

STATE AND TERRITORIAL

GEORGIA

University of Georgia, Athens. Institute of public affairs. Proceedings . . . June 30-July 2, 1936. Part II. State and local problems: Public health. Athens, 1936. xii, 76 p.

ILLINOIS

Tax commission. The Illinois revenue system, 1818-1936, by I. M. Labovitz. Springfield, 1936. 89 p.

——— *Tax-rate limits of Illinois local governments, 1925-1936.* Springfield, 1936. 79 p.

KANSAS

Legislative council. Research department. Among the numerous and useful publications of this organization just issued are "Safety regulation for motor vehicles, research report;" "Social security program;" "Cost of government in Kansas, six fiscal years, 1929-1936;" "The operation of the Kansas habitual criminal law."

LOUISIANA

State University and Agricultural and Mechanical College. A history of western civilization, by Charles Edward Smith. Baton Rouge, Louisiana State University Press, 1936. 519 p.

NORTH CAROLINA

Emergency relief administration. Social survey division. Social security survey of North Carolina emergency relief cases covered by the federal social security act. Raleigh, 1936. 141 p. (mime.).

University of North Carolina, Chapel Hill. Extension Division. Government ownership and operation of electric utilities. Compiled by R. R. Rankin. Chapel Hill, 1936. 132 p.

NORTH DAKOTA

Tax survey commission. This commission has recently issued three reports, on higher education, the economic background of taxation, and a digest of the tax laws of North Dakota.

TEXAS

University of Texas, Austin. The Administration of Justice in Great Britain, by Caleb Perry Patterson. Austin, University of Texas, 1936.

FOREIGN AND INTERNATIONAL

CHINA

National committee on intellectual coöperation. Handbook of cultural institutions in China. Nanking, 1936.

COLOMBIA

Comisión de negocios constitucionales. Actas. Bogotá, 1936. 149 p.

Cámara de Representantes. Proyectos de leyes sobre asuntos sociales y cuestiones obreras. Exposición de motivos. Informes. Modificaciones. Comisión VI. Bogotá, Imp. Nacional, 1936. 200 p.

FRANCE

Ministère de la Justice. French opinion on the United States and Mexico, 1860-1867. Paris, 1936.

GERMANY

Auswärtiges amt. . . . La politique extérieure de l'Allemagne, 1870-1914 . . . tome 27. Berlin, 1936.

HONDURAS

Presidente. Mensaje dirigido al soberano congreso. Tegucigalpa, 1936. 46 p.

Congreso nacional. Contestación del Congreso nacional al mensaje del Señor Presidente de la república. Tegucigalpa, 1937.

PORTUGAL

Constituição política da República Portuguesa. Lisboa, 1936. 66 p.

SWITZERLAND

Archives d'État de Genève. Catalogue de la collection des manuscrits historiques. Publication de la Fondation Universitaire Harvey. Genève, A. Julien, 1936. 210 p. (Among the manuscripts listed are many charters.)

INTER-AMERICAN CONFERENCE FOR THE MAINTENANCE OF PEACE.

Diario de la conferencia Interamericana de consolidación de la paz. Num. 1-24. Buenos Aires, December 1-24, 1936. (This is a daily magazine rather than newspaper, giving the information necessary and useful to those attending the conference.)

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MILITANT DEMOCRACY AND FUNDAMENTAL RIGHTS, I*

KARL LOEWENSTEIN
Amherst College



I

Fascism a World Movement. Fascism is no longer an isolated incident in the individual history of a few countries. It has developed into a universal movement which in its seemingly irresistible surge is comparable to the rising of European liberalism against absolutism after the French Revolution. In one form or another, it covers today more areas and peoples in Europe and elsewhere than are still faithful to constitutional government. Fascism's pattern of political organization presents a variety of shades. One-party-controlled dictatorships rule outright in Italy, Germany, Turkey, and, if Franco wins, also Spain. The so-called "authoritarian" states may be classified as belonging to the one-party or multiple-party type. To the one-party authoritarian group, without genuine representative institutions, adhere at present Austria, Bulgaria, Greece, and Portugal; while Hungary, Rumania, Yugoslavia, Latvia, and Lithuania may be classed together as authoritarian states of the multiple-party type, with a semblance of parliamentary institutions. Poland is at the present time in process of being transformed from a multiple party state into a one-party dictatorship. Without being nominally fascist, all of these states are authoritarian to the extent that the group in power controls public opinion as well as the machinery of government. Moreover, for purposes of the present tabulation it is of slight importance that in some of them the dominating group is, at least supposedly, on the defensive against fascist movements proper, mainly because of the threat "*Ôte-toi que je m'y mette.*"

Of democratic countries with constitutional government, there

* This article covers developments to April 1, 1937.

remain at present only Great Britain and the Irish Free State, France, Belgium, the Netherlands, Switzerland, the Scandinavian countries (Sweden, Norway, and Denmark), Finland, Czechoslovakia, and, with some reservations, Estonia.

General characteristics and special features of dictatorial and authoritarian government are too well known to be repeated here. Expressed in an empirical formula, such government is a supersession of constitutional government by emotional government. Constitutional government signifies the rule of law, which guarantees rationality and calculability of administration while preserving a definite sphere of private law and fundamental rights. Dictatorship, on the other hand, means the substitution for the rule of law of legalized opportunism in the guise of the *raison d'état*. By the fusing of private law completely into public law, no trace of individual rights and of the rule of law is left. Positive law is no longer measured in terms of constitutional legality, but only in terms of unchallengeable command. Since, in the long run, no government can rely only on force or violence, the cohesive strength of the dictatorial and authoritarian state is rooted in emotionalism, which thus has supplanted the element of legal security in the last analysis determining constitutional government. The technical devices for mobilizing emotionalism are ingenious and of amazing variety and efficacy, although recently becoming more and more standardized. Among them, besides high-pitched nationalist enthusiasm, the most important expedient, perhaps, is permanent psychic coercion, at times amounting to intimidation and terrorization scientifically applied. A pertinent illustration chosen from the experience of a democracy may clarify the vital difference between constitutional and emotional methods of government. The solution of the recent political crisis in England by the cabinet and the Commons was sought through rational means. To have left the issue to the verdict of the people would have been resorting to emotional methods, although general elections are manifestly a perfectly legitimate device of constitutional government.

Fascist International in the Making. In addition to these more or less uniform features of internal organization, a closer transnational alignment or "bloc" of fascist nations, a "Union of Europe's Regenerated Nations," a fascist International of the multi-colored shirts, is clearly under way, transcending national

borders and cutting deeply across historical diversities of traditionally disjoined nationalisms. The modern crusaders for saving Western civilization from Bolshevik "chaos"—a battle-cry which in all countries gone fascist has proved invaluable—for the time being sink their differences and operate jointly according to a common plan. Under this missionary urge, which is one of the most astounding contradictions of a political system based on the superiority complex of each individual nation, what exists of distinguishing marks in program, ideology, and nationally conditioned premises of *Realpolitik* shrinks to insignificance. In Spain, a mélange of fascist "volunteers" and mercenaries from many countries wage war against international battalions of anti-fascists.

By the same token, close contact and coöperation between the headquarters of international fascism in Berlin and Rome and the outposts in the various countries still adhering to democracy is established, expert advice is sought and readily given, semi-official calls of the fascist leaders from foreign countries are no longer dissimulated, and, as reported from reliable sources, the spiritual radiation of techniques and stratagems is intensified by substantial monetary support. A pattern of a specific technique of fascist penetration and conquest has been developed which, after having proved its efficacy in the larger fascist countries, is eagerly adjusted to rational conditions by all fascist movements in the making.

Fascist Movements in Countries Still Democratic. Be it noted that fascist groups or parties openly or secretly exist today in all countries which have remained faithful to the rule of law. In Belgium, the Rexists under Léon Degrelle have become an alarming threat to the democracy; France displays a variety of semi-fascist, authoritarian, or more modestly styled "renovation," movements, the most notorious of which, the dissolved *Croix de Feu*, has been resuscitated as the camouflaged *Parti Français Social*; Switzerland's public life is marked by various "fronts," particularly in the cantons of Zürich, Schaffhausen, and Geneva; Norway has the National Socialists of Major Quisling; fascists in the Netherlands follow, among others, Mynheer Mussert; Ireland has her Blueshirts under General O'Duffy; Denmark and Sweden have their local varieties; and in England Sir Oswald Mosley preaches and practices the new gospel.

Without going into details, the political situation of fascism in the various democracies may be summed up as follows: In Sweden,

Norway, and Denmark, the "authoritarian" movements have thus far been rather negligible; numerically unimportant, National Socialism has gained access to none of the national parliaments, although occasionally representatives are elected to communal bodies. In the Netherlands, the Nazi party in 1935 achieved considerable success in the elections for the provincial legislatures and for the First Chamber of the national parliament, polling about eight per cent of the total vote; although since that time the movement seems to have lost ground. In Belgium, at the general elections of May, 1936, the new Rexist party of Degrelle won a striking victory, mainly at the expense of the Catholic and Liberal parties, polling more than ten per cent of the total vote and sending twenty-one deputies to the House of Representatives. In addition, the Flemish Nationalists, who are equally inclined to authoritarian methods, doubled their previous quota of eight seats. When, however, Degrelle, relying on what he believed to be a growing popularity of the movement, forced a by-election in Brussels in April, 1937, the government parties took up the challenge and Premier van Zeeland inflicted upon him a severe defeat. Some observers interpret this election—perhaps prematurely—as the turning of the fascist tide in Belgium and elsewhere.

In France, the various fascist or authoritarian groups did not compete with the regular parties at the general elections of April-May, 1936. Their strength cannot be measured in terms of votes, but Colonel de la Rocque claims for his new French Social party a following amounting to not less than two millions. The other more outspokenly fascist groups have been dissolved, and in any case were numerically and politically of no great importance. In the Irish Free State, the Blueshirts are not represented in the Dáil, and in England Mosley's Union of British Fascists apparently has attracted, by noisy propaganda, much more public attention than its numerical strength justifies; the municipal elections in London in March, 1937, revealed its voting strength as negligible, not a single fascist candidate being returned. Fascist parties are prohibited or under severe legal restrictions in the Baltic states, in Finland, and in Czechoslovakia. This fact, however, is no evidence of their actual disappearance. In Czechoslovakia, Herr Konrad Henlein has reconstituted the dissolved German National Socialist party in the form of a legal political party, the Sudetendeutsche Partei; and in the general elections of May, 1935, this party polled

more votes than any other and obtained forty-four seats in the House of Representatives, i.e., only one seat less than the leading Czech government party. Strong fascist or National Socialist movements exist, although nominally proscribed or suppressed, in Rumania, Hungary, Bulgaria, and Yugoslavia.

The programmatic and ideological ingredients of this widely ramified movement of international fascism are surprisingly uniform: hatred toward communism and its kin, Marxism and socialism; antisemitism, with the notable exception of Italy, although even here, evidently under the influence of the "Berlin-Rome axis," a change in attitude is noticeable; hostility to freemasons, pacifists, and similar international organizations; the "leadership" principle and abolition of liberal democracy and its institutions; a hazy sort of corporativism; general house-cleaning under the slogans of "regeneration" and "renovation;" rampant nationalism. Recruits are usually drawn from the depressed middle classes, from some sections of the intelligentsia, and most of all from the youth, with a fair sprinkling of retired army officers and disgruntled politicians. On close observation, a similarity of the personalities of the "leaders" is discernible also. If available, a man from the lower middle class or from the proletarian stratum is preferable to an intellectual, which accounts for the juxtaposition of M. Doriot to Colonel de la Rocque in France. For technical reasons to be shown later, the actual personality of the leader is not of primary importance. In spite of slight national differences, the similarities of the fascist movements in the various democratic countries are so striking as to betoken, at least to a superficial observer, common causations of origin and growth.

Impossibility of Explaining International Fascism by a Common Causation. Surprisingly enough, however, none of the commonly assumed motives of fascism holds good. No longer are only the nationally frustrated nations breeding fascist nationalism. None of the Scandinavian countries, nor yet France, Spain, or Belgium, suffers from thwarted national ambitions. Nor is it true that nations endowed with the experience and tradition of self-government are immune from the fascist virus. France and Belgium, at present most exposed to fascism, prove the contrary. Nor can it be held that economic pressure is alone responsible for driving people to political quacks and spell-binders. The depression is visibly on the wane; very little acute misery exists in Belgium and in the

other gold-bloc countries, although postponement of devaluation may have delayed recovery. In short, no common denominator for the emergence of fascism can be discovered among nations differing so widely in national character, historic tradition, and economic structure.

Another common assumption is that private capitalism, threatened by the socialist tide and the attendant loss of privileges, builds up fascism as a protective wall of counter-revolution. Beyond doubt, this theory is justified empirically by events in Germany, Italy, Austria, and recently in Spain. But it would be an undue belief in the self-stultification of the capitalist class to assume that it should not have fully realized the ultimate fate of private capitalism under fascist domination in a totalitarian régime. Private capitalism cannot have failed to understand that at least in Italy and Germany it has fallen from the frying pan into the fire, and that capital controlling democracy is far preferable to corporative middle-class bureaucracy controlling capitalism. In spite of the risks arising from universal suffrage, capitalism thrives best under democracy with its predictability of the rule of law. In addition, the totalitarian state leads eventually to war; whereas democracy and capitalism need peace and safety of investment more than anything else. Middle-class dictators, at the bifurcation of the road, are bound to turn left. Here appears at least one of the potential checks on fascism.

In view of the present situation, one of two conclusions imposes itself. On the one hand, fascism may be nothing less than one of the ground-swells of the spirit which by their universal nature irresistibly transform a world more closely knit together today than ever before. If this be true, democracy as a pattern of political organization is doomed, as royal absolutism was once doomed when liberal democracy conquered the globe. Resistance against the relentless march of history would be a waste of time and energy, and would only aggravate the disaster of the final surrender. One can never escape the spirit. Fascist propaganda has succeeded in instilling this belief in the masses and, like any belief, it cannot be argued. On the other hand, if fascism is not a spiritual flame shooting across the borders, it is obviously only a technique for gaining and holding power, for the sake of power alone, without that metaphysical justification which can be derived from absolute values only. If this hypothesis is realized, the answer is equally ines-

capable. If democracy is convinced that it has not yet fulfilled its destination, it must fight on its own plane a technique which serves only the purpose of power. Democracy must become militant.

Fascism is not an Ideology but a Political Technique. The fact that fascism is not an ideology, but only a political technique, is abundantly evidenced by the vast experience of the last decade. Fascism is not a philosophy—not even a realistic constructive program—but the most effective political technique in modern history. Its conceptual barrenness is exposed clearly in connection with the Spanish rebellion. Just as in Italy the march on Rome antedated the formulation of a program—a fact which fascism proudly admits—the conquest of power by General Franco and his mercenaries is the sole objective and needs not even the pretext of a substantiated program. Fascism simply wants to rule. The vagueness of the fascist offerings hardens into concrete invective only if manifest deficiencies of the democratic system are singled out for attack. Leadership, order, and discipline are set over against parliamentary corruption, chaos, and selfishness; while a cryptic corporativism is substituted for political representation. General discontent is focussed on palpable objectives (Jews, freemasons, bankers, chain stores). Colossal propaganda is launched against what appears as the most conspicuously vulnerable targets. A technique of incessant repetition, of over-statements and over-simplifications, is evolved and applied. The different sections of the people are played off against one another. In brief, to arouse, to guide, and to use emotionalism in its crudest and its most refined forms is the essence of the fascist technique for which movement and emotion are not only linguistically identical. It is a peculiar feature of the emotional technique that those who are brought into play as the instruments, i.e., the masses, should not be aware of the rational calculations by which the wire-pullers direct it. Fascism is the true child of the age of technical wonders and of the emotional masses.

This technique could be victorious only under the extraordinary conditions offered by democratic institutions. Its success is based on its perfect adjustment to democracy. Democracy and democratic tolerance have been used for their own destruction. Under cover of fundamental rights and the rule of law, the anti-democratic machine could be built up and set in motion legally. Calculating adroitly that democracy could not, without self-abnegation, deny to any body of public opinion the full use of the free institu-

tions of speech, press, assembly, and parliamentary participation, fascist exponents systematically discredit the democratic order and make it unworkable by paralyzing its functions until chaos reigns. They exploit the tolerant confidence of democratic ideology that in the long run truth is stronger than falsehood, that the spirit asserts itself against force. Democracy was unable to forbid the enemies of its very existence the use of democratic instrumentalities. Until very recently, democratic fundamentalism and legalistic blindness were unwilling to realize that the mechanism of democracy is the Trojan horse by which the enemy enters the city. To fascism in the guise of a legally recognized political party were accorded all the opportunities of democratic institutions.

The main principle of democracy is the notion of legality. Fascism therefore officially annexed legality. Since experience acquired in other countries does not commend the *coup d'état* for the immediate conquest of the state, power is sought on the basis of studious legality. If possible, access is obtained to national and communal representative bodies. This purpose is facilitated by that gravest mistake of the democratic ideology, proportional representation. Democracies are legally bound to allow the emergence and rise of anti-parliamentarian and anti-democratic parties under the condition that they conform outwardly to the principles of legality and free play of public opinion. It is the exaggerated formalism of the rule of law which under the enchantment of formal equality does not see fit to exclude from the game parties that deny the very existence of its rules.

Concomitantly, the movement organizes itself in the form of a semi-military *corps*, the party militia or private army of the party. Under the pretense of self-protection, the original nucleus of the personal bodyguard of the leaders, and of the stewards for the maintenance of order in meetings, is developed into a large fighting body of high efficiency equipped with the fullest outfit of military paraphernalia, such as military hierarchy, uniforms and other symbols, and if possible arms. Again, this technique has strong emotional values and purposes. In the first place, mere demonstration of military force, even without actual violence, does not fail deeply to impress the peaceful and law-abiding bourgeois. Its manifestation, so alien to the normal expressions of party life, is, as such, a source of intimidation and of emotional strain for the citizens. On the other hand, while democratic parties are charac-

terized by the looseness of their spiritual allegiance, the military organization of the fascist parties emphasizes the irrevocable nature of the political bond. It creates and maintains that sense of mystical comradeship of all for each and each for all, that exclusiveness of political obsession in comparison to which the usual party allegiance is only one among many pluralistic loyalties. When party allegiance finally transcends allegiance to the state, the dangerous atmosphere of double legality is created. The military routine, because it is directed against despised democracy, is ethically glorified as part of party symbolism which in turn is part of the emotional domination. Disobedience towards the constituted authorities naturally grows into violence, and violence becomes a new source of disciplined emotionalism. The conflicts with the state—unavoidable when this phase of active aggressiveness is reached—increase the common sentiment of persecution, martyrdom, heroism, and dangerous life so closely akin to legalized violence during war. In addition, the movement is, within its own confines, genuinely democratic. A successful roughneck forthwith rises to distinction in its hierarchy. The uniform has a mystical attraction also in avowedly non-militaristic countries. The effect of military display on the "soft" bourgeois is all the more lasting because he contrasts the firmness of purpose of accumulated force in fascism with the uncontrolled fluctuations of normal political life. In politics, the only criterion of success is success. Fascism has been irresistibly successful in other countries; thus far, it ~~has never met~~ with a reverse. In any democratic country, be it traditionally ever so sober and balanced, the existence of a political movement organized as military force makes the average citizen uneasy and creates the feeling of restiveness which emotional politics needs.

Last, but not least, the party army develops into a potential competition with the regular armed forces in the case of a *coup d'état* which invariably follows when the period of pretended legality has reached its aim of undermining the forces of resistance. Repressive counteraction of the threatened state usually comes too late and is paralyzed by fear of civil war.

In former ages, revolutionary movements operated cautiously and in secrecy. They were dangerous because of their underground nature. They could strike without warning. In most states, legislation was passed against secret societies. In the age of the emotional masses, the situation is reversed. Revolutionary fascism

needs the spotlight of the utmost publicity. It could never unfold itself in the dark. Thus fascism forces itself into the foreground, where its emotional spell can be cast upon the masses. Its technique is relentless self-advertisement and propaganda. Democracy could not reckon with the effects of open propaganda. While vigilance was focussed, in fatal misunderstanding of the changed technique of revolutionary movements, on secret actions, no legislative devices existed for offsetting revolutionary emotionalism in the garb of legality, propaganda, and military symbolism. Fascism shrewdly capitalized this situation and won its most notable victories by boring into the weakness of the democratic system.

The German Illustration. The causes for the failure of the democratic experiment in Germany are by far too complex to be measured in terms of a single denominator. But the lack of militancy of the Weimar Republic against subversive movements, even though clearly recognized as such, stands out in the post-war predicament of democracy both as an illustration and as a warning. It is common knowledge that the actual hardships and the spiritual humiliations of the folly of Versailles, so stubbornly enforced by mediocre lawyers acting as French statesmen, in the long run served only the purpose of helping Hitler into the saddle. But the deeper guilt of the mediocre bureaucrats acting as German statesmen should by no means be minimized, as has become the habit of one-sided historiographers. When the para-military patriotic movements of the early twenties were driven underground by dictation from Paris, Hitler rose to power by deliberately exploiting the national predilection for military forms of community life for which no lawful outlet existed. Caught by this tragic dilemma, no German government could bring itself to take a strong stand against movements whose professedly patriotic aims appealed even to those who disapproved of the political methods applied. Laden with the heritage of the Treaty, the Republic was powerless against a party which by promoting its own interests fought for redress of the national grievances. The bourgeoisie, after recovering from the first shock of being exposed to the immature schemes of socialist doctrinaires, sided wholeheartedly with the Reichswehr and big business, which secretly connived at National Socialism. Thus socialist and democratic cabinets of the center found themselves fighting against the two fronts of the radicalized masses and the patriotically inflamed *saboteurs* of democracy. In addition, the

law-abiding mind of the German people developed the new-fangled ideologies of democratic equality and fair play for all into a self-destroying legalism of which the decisions of the Supreme Constitutional Tribunal are a pertinent illustration.

A survey of the legislative defences of the Republic against the enemies of the democratic order reveals an almost tragicomical picture of half-hearted, laggard, and thoroughly ineffective methods of dealing with the subversive technique. The law for the protection of the Republic, sprung from popular indignation over the assassination of Herr Rathenau in June, 1922, was openly defied by Bavaria and secretly made blunt by hyper-legalistic, or even mutinous, courts from the beginning; and when renewed in 1930, the statute emerged from Parliament insipid and feeble. The elections in September, 1930, resulted in a political deadlock by which any constitutional amendment was dependent on the support of those against whom it was directed; that atmosphere of illegality and high treason was created which ultimately killed the Republic. No government would dare to seize arms unlawfully possessed by militarized parties, since secreting of arms was a patriotic manifestation against the Treaty. How could legislation for the protection of democratic institutions and symbols be enforced when the German bourgeoisie branded democracy with the stigma of Versailles? Measures aimed at curbing political excesses were futile when every radical deputy could, under the protection of sacrosanct parliamentary immunities, employ the platform to undermine the Republic. For less than two months, in the spring of 1932, the wearing of political uniforms in public was unlawful under an emergency decree of the Reich. But it was impossible to enforce the ordinance because of the diversities in the political composition of the governments of the Länder entrusted with such enforcement. In the light of later events, the decree of the cabinet of von Papen in June, 1932, by which associations "whose members habitually appear in public in closed formation" were required to submit their by-laws to the Minister of the Interior, reads like a travesty of law.

The German Republic foundered on its own concepts of constitutional legality, which opened the way to power for Hitler. Democracy had surrendered to National Socialism long before Hitler was "legally" appointed Chancellor of the Reich. On the other hand, it must be admitted frankly that National Socialism knew how to

benefit from the calamitous experience of the Weimar Republic. The one-party system was the logical answer to the democratic tolerance of the crushed Republic.

Impossibility of Democratic Emotionalism. Once the character of revolutionary fascism as a technique for destroying democracy emotionally is recognized, much of its spell is broken. The inductive object lesson offered by the experience of the last decade was not entirely lost upon the countries still adhering to democracy. At long last, democracies became conscious of the threat, and they are now organizing defence. On the whole, the outlook for democracy has improved considerably, both psychologically and materially. The tide of fascism seems to be turning, although in several countries, e.g., Belgium and France, there is still imminent danger.

One method of overcoming fascist emotionalism would certainly be that of offsetting or outdoing it by similar emotional devices. Clearly, the democratic state cannot embark on this venture. Democracy is utterly incapable of meeting an emotional attack by an emotional counter-attack. Constitutional government, by its very nature, can appeal only to reason; it never could successfully mobilize emotionalism; even its emotional ingredients are only a prelude to reason. The emotional past of early liberalism and democracy cannot be revived. Nowadays, people do not want to die for liberty. The heroic defenders of Spain against Franco and his fascist auxiliaries do not fight for liberty as such, but for a new social ideal, or perhaps only for their lives. As a rational system, democracy can prove its superiority only by its achievements, which are obfuscated by economic distress and discredited by social shortcomings. The values of liberty seem secure, with the result that to many they appear worn out by routine, faded, pale, and glamourless. Democracy could not devise emotional formulas capable of competing with the fascist Pied Pipers. Democracy *à la recherche d'une nouvelle mystique* seems hopeless, if not ridiculous. Democratic romanticism is of itself a contradiction.

The Common Front Idea. Realistically, the defense of democracy can be projected only on political and legislative lines. The two methods are clearly distinct, although if political presuppositions are lacking, legislative action cannot be taken. Spiritually, both arise from the same will of self-protection and self-preservation. But while the political attitude aims at establishing a united and uniform action among the democratically-minded sections of the

people against the common enemy, the anti-fascist legislation in democratic states is directly pointed at the fascist technique; it can be passed even if a formal political understanding among the various anti-fascist parties does not exist. On the other hand, political union alone, without the technical legislation, fails to achieve its purpose.

In many states, democratic parties have become aware that the very existence of democracy is at stake. The war of doctrines is at last in full swing. It is true that fascism, in the present stage, pretends to crusade mainly against Marxism. But its spokesmen denounce liberalism and democracy, the germ carriers and hotbeds of socialism and communism, as the gateway to bolshevism. The logical result has been the rise of the Common Front idea in several countries. Originating in Spain, it was followed up in France with, at least for the time being, unmistakable success. In France, as in other countries, the main difficulty in uniting the anti-fascist parties is the strong aversion of large sections of the bourgeois middle-classes and of the farmers towards the Left; the Communist partner's devotion to constitutional government and to the principles of private property are justly mistrusted. The Common Front idea, new and untried as it is, has proved a two-edged weapon, and the ambiguity of the political alliance is widely exploited by fascist propaganda. Thus it cannot be regarded as the final determinant for the solution of the problem of political union against fascism.

Furthermore, for various reasons, in most countries, e.g., England and Switzerland, the Common Front plan has little chance of realization. In some cases, communism has been subjected to severe restrictions; in others, it is almost non-existent. The absence of the disturbing element of communism has facilitated a closer drawing together of the bourgeois liberal and moderate socialist parties for common defense without the precarious device of a political alliance in the form of a common front. This accounts for the fact that in most democratic countries, with the exception of France, the defense of the moderate parties is directed equally against communism and fascism, with the result that anti-extremist legislation can be coördinated without flagrant violation of democratic principles. As A. P. Herbert, M. P., humorously remarks: "A plague on both your blouses." Thus the Catholic parties have been able to combat the anti-religious propaganda of communism, while the liberal center parties, which are usually the first losers to fascism,

could concentrate their activities against that enemy. In all democratic countries except France, a concurrent attitude of the constitutional parties against both fascism and communism has been established and anti-extremist legislation has been carried by parliamentary vote and public opinion at large.

Lack of Coöperation Among Democracies. On the other hand, while the Fascist International seemingly operates according to a strategic plan on trans-national lines, very little has been accomplished toward establishing a closer coöperation of democracies internationally. Democracies still adhere to the belief that a war of doctrines must be avoided at all costs. The existence of a common danger is not fully recognized. International fascism benefits again. In every country where fascism seized power, it was helped most by the disunity of its opponents. International fascism is obviously confident that the same strategy can be applied to Europe as a whole. The currency agreement in the autumn of 1936 among the gold-bloc countries, the sterling bloc, and the United States was purely opportunistic and one of the many lost opportunities for concerted action. Even the remarkable experiment of establishing regional solidarity on this side of the ocean by the Pan-American Conference seems less auspicious in view of the disintegrating tendencies of local fascist movements. Efforts at mutual economic understanding are at least under way between the Netherlands and the Scandinavian countries and among the members of the Baltic group. More *esprit de corps* is shown in Spain, where international anti-fascists rally behind the Spanish republic. This first instance of vigorous defense is at the same time a clear indication that the war of doctrines can no longer be ignored. At any rate, the Spanish example helps to convince fascism as well as democracies that in any particular country a fascist *coup d'état* means civil war.

Democracy Becomes Militant. The most important step has been taken in a different direction. More and more, it has been realized that a political technique can be defeated only on its own plane and by its own devices, that mere acquiescence and optimistic belief in the ultimate victory of the spirit over force only encourages fascism without stabilizing democracy. Since fascism is a technique bolstered up *ex post facto* by ideas, it can be checked only by a similar technique. It took years to break through the democratic misconception that the principal obstacle to defense against fascism is democratic fundamentalism itself. Democracy stands for fundamental rights, for fair play for all opinions, for free speech,

assembly, press. How could it address itself to curtailing these without destroying the very basis of its existence and justification? At last, however, legalistic self-complacency and suicidal lethargy gave way to a better grasp of realities. A closer study of fascist technique led to discovery of the vulnerable spots in the democratic system, and of how to protect them. An elaborate body of anti-fascist legislation was enacted in all democratic countries. The provisions were drafted precisely for checking the particular emotional tactics of fascism. Step by step, each device on which the success of fascism is grounded was met by a legislative provision which crippled it. Furthermore, fascism as a technique went the way of all purely technical contrivances. It became stereotyped. Thus precaution could be taken against repetition of formulas and patterns of action which were successful in other countries. Seen from the angle of its international application, fascist technique appears now rather conventional and standardized; variations of its schematic mechanism are comparatively rare in spite of its ingenuity in adjusting itself to the particular national situation. Thus the legislative counteraction could definitely match the emotional technique. It is a clear indication of the growing unwillingness of democracies to lend parliamentary institutions to the fascist technique of exploiting them for their selfish ends that the Belgian parliament in March, 1937, passed a bill seeking to prevent resignations from parliamentary seats merely for the sake of ~~facilitating~~ propaganda at the ensuing by-elections. Although democratic countries could not bring themselves to concerted action on an international basis, the prophylactic measures adopted in each individual country are surprisingly similar. After much hesitancy and legalistic inhibition, efficient measures against fascism reached the statute books. In spite of the electoral successes of fascist movements in several countries, such as Czechoslovakia, Belgium, and the Netherlands, the movements are kept by legislation within the bounds of normal political parties, and if fascism did not get beyond control in any democratic country which adopted anti-fascist legislation, it is because democracy finally became militant.

Can an Idea be Suppressed? At this juncture, a serious objection may be raised. No spiritual movement can, in the long run, be suppressed merely by legislative and administrative measures. At most, it may be only slowed up. Liberalism survived the reaction of the Holy Alliance, and in the second half of the nineteenth century it conquered the world. The German statute proscribing

socialism during the period 1878-90 did not prevent the resuscitation of the Social Democrats after repeal. Russian communism, outlawed before and after 1905, today rules the empire of the Czar. Always the spirit breaks its chains. But socialism was an idea, perhaps the strongest idea since 1789; and history teaches the deathlessness of ideas. The same argument, however, does not operate in favor of fascism, because it is not an ideological movement but only a political technique under ideological pretenses. There is no historical evidence that a political technique is irresistible if recognized and fought as such.

Democracies withstood the ordeal of the World War much better than did autocratic states—by adopting autocratic methods. Few seriously objected to the temporary suspension of constitutional principles for the sake of national self-defense. During war, observes Léon Blum, legality takes a vacation. Once more, democracy is at war, although an underground war on the inner front. Constitutional scruples can no longer restrain from restrictions on democratic fundamentals, for the sake of ultimately preserving these very fundamentals. The liberal-democratic order reckons with normal times. The guarantee of individual and collective rights serves as a legal basis for compromise between interests which, to be sure, may fall into conflict, but which nevertheless are animated by common loyalty toward the fundamentals of government. Constitutions ~~are~~ dynamic to the extent that they allow for peaceful change by regular methods, but they have to be stiffened and hardened when confronted by movements intent upon their destruction. Where fundamental rights are institutionalized, their temporary suspension is justified. When the ordinary channels of legislation are blocked by obstruction and sabotage, the democratic state uses the emergency powers of enabling legislation which implicitly, if not explicitly, are involved in the very notion of government. Government is intended for governing. Fascism has declared war on democracy. A virtual state of siege confronts European democracies. State of siege means, even under democratic constitutions, concentration of powers in the hands of the government and suspension of fundamental rights. If democracy believes in the superiority of its absolute values over the opportunistic platitudes of fascism, it must live up to the demands of the hour, and every possible effort must be made to rescue it, even at the risk and cost of violating fundamental principles.

[To be concluded in the next number]

UNEMPLOYMENT ASSISTANCE IN GREAT BRITAIN

PAUL TUTT STAFFORD
Princeton University

I

The British Unemployment Assistance Act of 1934 is unquestionably the most important legislative innovation in the field of public poor relief since the passage of the Elizabethan poor laws.¹ It represents the final fruition of the movement for the "break-up" of the old poor law system, for by its provision the "break-up" is made virtually complete. In sweeping terms, it adopts the principle of national responsibility for the care of the nation's able-bodied poor, and establishes for the administration of the duties thereby thrust upon the national government a vast new machinery directly operated from Whitehall. Local responsibility for a major portion of a basic governmental function is thus completely wiped out, and the old poor law stands stripped of its essential substance and significance, a mere shell of the former system out of which grew the modern institutions of English local government.

For more than three hundred years, the concept of poor relief as a function of local government has been basic to the philosophy of the poor law. The great landmarks of legislation enacted since the days of Elizabeth—the Poor Law Amendment Act in 1834, the Local Government Act in 1929, and the Poor Law Act in 1930—made important changes in local relief organization and established new forms of central supervision and financial assistance, yet they did not divest the local governments of control and operation of the provision for assistance.² This continued to be the very essence of the poor law system. In the light of poor law history, the virtual

¹ This act was passed as Part II of the Unemployment Act, 1934. Part I may also be cited separately as the Unemployment Insurance Act, 1934.

² The most comprehensive analysis of the 1834 revision of the poor law is contained in Sidney and Beatrice Webb's monumental study of English poor relief. See their *English Poor Law History: The Last Hundred Years*, Vol. I (New York, 1929). The reader should, however, guard against the obvious bias of the authors. The 1929 enactment, as amended by the Poor Law Act, 1930, with explanatory notes and Ministry of Health memoranda and regulations, may be found in A. M. Eve and F. A. Martineau, *The Local Government Act, 1929* (London, 1930). For brief summaries of more recent social legislation, I have found J. J. Clarke's compendious volume, *Social Administration, Including the Poor Laws* (London, 1935), especially useful.

abandonment of the principle of local responsibility for relief of the able-bodied destitute represents nothing less than a revolutionary change in public social policy.

The action in 1934 was not, however, entirely unexpected. Relief of the able-bodied unemployed had for a number of years been a national problem of far-reaching importance; but despite the most strenuous efforts on the part of Parliament it still remained without a satisfactory solution. The existing provisions for able-bodied relief comprised a series of national and local activities which by that time had become so elaborately intermingled and involved that drastic measures were imperative.

In the early stages of the post-war depression, the local relief authorities had proved unable to carry the entire burden of unemployment relief and the national government had consequently been forced to provide aid for a large proportion of the unemployed. After 1920, when the unemployment provisions of the National Insurance Act of 1911 were greatly enlarged in scope, practically all of the unemployed industrial workers in the country were brought within the framework of the national insurance system. Some of the unemployed, however, remained outside the scope of insurance. The result was a division of able-bodied relief into two parts, national unemployment insurance and local poor relief. This wholly illogical arrangement not only was confusing but also gave rise to inequalities in treatment for which no real justification could be found.

The demand for a fundamental revision came from two principal sources. In the first place, the proponents of the general movement for the "break-up" of the poor law favored the transfer of all forms of able-bodied assistance to the national government. The attack upon the poor law system arose originally out of popular dissatisfaction with the early methods of its operation and with the nature of the relief it provided. The harsh conditions under which assistance was granted and the dreaded stigma which accompanied the receipt of aid have always aroused the resentment of the humanitarians. The movement to destroy the poor law, thus rooted in humanitarian sentiments and ideology, gradually gained strength during the nineteenth century until finally, with the encouragement given by the Royal Poor Law Commission's sweeping denunciations of the poor law system in 1906-07, it was translated into positive legislative action. With the passage of the National In-

surence Act in 1911, the national government was forced to embark upon a constantly expanding program of national social services, which by 1934 had reached the point where a considerable portion of the public provisions for all those in need had been separated from the poor law.

Following the World War, the proponents of this movement had centered their attention upon the problem of unemployment relief and had been instrumental in enlarging the sphere of national responsibility in this field. Their objective here, however, had not yet been fully achieved. The poor law still remained an integral part of the unemployment relief program. Those who were unemployed for extended periods were ultimately forced to fall back upon poor law relief, while other unemployed persons who remained outside the scope of national insurance altogether found the poor law the sole means of their support. If these classes of unemployed could be divorced from the poor law and placed under the permanent care of the national government, nationalization of the able-bodied relief services would be an accomplished fact.³

The other principal factor in the passage of the 1934 legislation was the failure of the national government's own efforts to take care of the chronically unemployed within the framework of the unemployment insurance scheme. After 1920, Parliament had attempted to deal with cases of continued unemployment by resorting to the device of extended or transitional benefits, soon to receive the ignominious title of the "dole." Insured workers who exhausted their standard benefits, or the payments to which they were entitled because of previous contributions from their wages, were granted additional assistance for specified periods, during which it was hoped and expected that work might be found. The mere fact of eligibility for standard benefit, in other words, entitled the worker to relief during a period of unemployment. In case both types of benefit were exhausted and unemployment continued, the final refuge was the local poor law.

Despite occasional upturns in business, widespread unemployment continued. As a temporary measure to meet a temporary condition, this plan might have worked reasonably well; but under the conditions which actually prevailed, its failure was a foregone

³ The strength of this movement was also a factor in the failure of the various post-war ministries before 1931 to confine unemployment insurance to the workers who had bona fide claims to benefits.

conclusion. Under pressure from all sides, Parliament amended, revised, and supplemented the insurance laws in an almost frantic attempt to extend their bounty to the growing ranks of the chronically unemployed. In 1930-31, the situation reached a crisis.

The inadequacy of the government's post-war unemployment relief policy gained general recognition with the publication of two important reports in 1931. In June, the Royal Commission on Unemployment Insurance issued an interim report sharply criticizing the practice of including uncovenanted or non-contributory assistance within the framework of the insurance system.⁴ The report clearly showed that this policy was largely responsible for the alarming increase in the indebtedness of the Unemployment Fund. The fund for financing the post-war unemployment insurance scheme under the 1920 legislation had at the outset a credit balance of £22,000,000. In one year the reserve was exhausted and borrowing from the Treasury was begun. Borrowing continued unabated, until by the end of 1930 the debt had risen to £59,990,000; and on June 30, 1931, a few days after the Commission's report was released, it stood at £88,030,000. In July, the May Committee on National Expenditure issued its *Report on the Social Services*,⁵ calling attention to the enormous increase in the cost of these services since the War as a major factor in the existing crisis in national finance. The Committee joined with the Royal Commission on Unemployment Insurance in decrying the failure of the government to recognize the limitations of the insurance scheme.

In line with the recommendations embodied in these reports, the insurance acts were amended to provide increased contributions from the insured and reduced rates of benefit. By far the most significant step taken, however, was the introduction of the means test into the scheme of extended benefits. The Unemployment Insurance (No. 2) Order, 1931, provided, *inter alia*, that persons who exhausted their rights to regular insurance benefits, or who could not meet the statutory conditions for such benefits although they came within the scope of the insurance scheme, would receive further assistance, now called transitional payments, *only*

⁴ Two members of the Commission issued a minority report recommending that no changes be made in the insurance system until the final report was presented.

⁵ Cmd. 392.

if they could prove a condition of need. In the administration of the new means test, the services of the local poor law authorities were enlisted. They were authorized to determine all questions of need, and to report the amount of assistance required in each case to the Ministry of Labor from whose employment exchanges the transitional payments as well as the regular insurance benefits were to be distributed. The whole cost of the transitional payments was to be defrayed out of Treasury funds.

The curious arrangement for administering uncovenanted assistance was undoubtedly dictated largely by matters of political expediency. It was generally recognized as a purely temporary device erected to meet the immediate demands for government retrenchment and economy. Its real significance lay in the fact that it introduced the opening wedge between contributory and non-contributory unemployment relief, and by placing the latter upon the basis of actual need paved the way for the fundamental revision three years later.

In October, 1932, the Royal Commission on Unemployment Insurance issued its final report embodying proposals for a more permanent system of state assistance. The Commission pointed out that the problem of chronic unemployment had overshadowed all other relief problems in the country since the War. With unanswerable logic, supported by a mass of factual data, it then demonstrated that while insurance was an appropriate measure for dealing with temporary or intermittent employment, it was highly inappropriate for the treatment of chronic unemployment. Two recommendations were strongly urged. First, that unemployment insurance should be entirely separate in theory and practice from any scheme of non-contributory assistance; and second, that the latter service should be extended to include all able-bodied industrial workers, including those who still were outside the existing system of insurance. The latter proposal implied that the great majority of the able-bodied who were forced to depend entirely upon poor law relief would be transferred to the new service.

To administer unemployment assistance, which was to be separated from unemployment insurance, the Commission recommended a new local service the operation of which would be placed in the hands of special committees of the county and county borough councils created for this purpose alone. The local authori-

ties were to be subject to the central control and guidance of the Ministry of Labor, with the cost of the service a local charge but partially defrayed by national grants-in-aid.⁶ In proposing this plan, the Commission was guided by the opinion that to divorce the new service from the stigma of poor law relief was socially desirable, but that at the same time, in the interest of economy and of local traditions, it was best to utilize to the utmost extent the existing facilities of the local poor relief system.

It can fairly be said that with the publication of this report the permanent separation of non-contributory unemployment relief from the insurance system was generally recognized as both necessary and desirable. The events of the twenties had demonstrated to the satisfaction of the great majority the impracticability of joining together these two types of national assistance. Furthermore, it was by this time quite clear that the national and local non-contributory assistance services should be joined together in a single, permanent service to be operated upon the basis of individual need. In embodying these desired changes in appropriate legislation, Parliament was faced with only one question upon which there remained important differences of opinion. This was whether the administration of the new service should be made a national or a local responsibility.

II

In rejecting the proposal of the Royal Commission on Unemployment Insurance for a new local service, Parliament was guided by several important considerations. In the first place, it was unsatisfactory to the group who were advocating the eventual destruction of the poor law system. To place the operation of the new service in the hands of local authorities, even though separate committees were erected for that purpose alone, was in their minds simply to add another function to the local poor law. The separation in theory could not be maintained in practice. Consequently,

⁶ The Commission gives no specific rules for dividing the expense of the service. It did suggest, however, that the local share might be derived from a uniform local rate of 4d. in the pound, with the national Exchequer furnishing whatever additional funds were necessary. The Minority Report of the Commission, signed by W. Asbury and Mrs. C. D. Rackham, argued for the retention of the unemployment insurance system for dealing with all able-bodied workers and the abolition of means test requirements for all forms of unemployment benefit.

the traditional stigma of poor law relief would be fastened upon unemployment assistance. Right or wrong, this criticism carried considerable weight. The Labor party was solidly against any effort to graft unemployment relief upon the poor law in any manner. Likewise, the majority opinion, although by this time committed to the principle of the means test for non-contributory aid, was inclined to agree with the view that poverty caused by unavoidable unemployment should be distinguished in its treatment from poverty due to indolence; that to attach to the former the stigma of the poor law was not only unjust but in the long run socially harmful.⁷

In the second place, the proposal was unpopular with the local authorities, who through their various national associations have long been able to exert a powerful influence upon the legislative process in Parliament. Quite generally, they were of the opinion that on the grounds of public policy they should not be made to finance any part of an undertaking which was essentially national rather than local in character. They also maintained that from the practical standpoint it was doubtful whether the already heavily-burdened local rates could actually bear the expenditures which the local governments would be called upon to make. At the same time, the suggestion that exchequer grants-in-aid be used to help equalize the financial burden involved was vigorously opposed by the more prosperous local governments. This arrangement would have forced them to contribute heavily by way of national taxes to the expenditures for unemployment assistance in the less prosperous units, and especially in the distressed areas where the highest rate of unemployment was centered. Although the alternative of a national service supported by national taxes would result in substantially the same burdening of the more prosperous local government units, it had the advantage of providing complete central control of the manner in which relief would be dispensed in the distressed areas throughout the country.

Finally, the proposal for local administration failed because of the wholly unsatisfactory operation of the transitional payments plan by the local authorities. The 1931 order-in-council, as previously noted, had given to the local public assistance committees the function of determining questions of need in all transitional

⁷ The Labor party, of course, continued to condemn the principle of the means test "lock, stock and barrel."

payment cases. Two conditions were imposed. First, that each local authority should base its allowance upon the standard of assistance adopted by it for the relief of its own able-bodied unemployed, who were outside the range of the insurance provisions and therefore receiving poor law relief; and, second, that the transitional payment allowance should not in any case exceed the amount that would be payable as covenanted unemployment benefit. The local authorities thus being left almost completely to their own devices, it was inevitable that confusion in administration and unequal treatment of the unemployed would result. Immediately there were as many standards of assistance as there were local units of government.⁸ It was not uncommon to find in the same district amounts paid to households in similar circumstances varying by several shillings per week merely because the homes of applicants on one side of the street were situated within the boundaries of a local authority different from that of the homes on the other side of the street.⁹ Local political considerations naturally could not be kept out of the picture. One county council might be predominantly conservative in its political complexion, in which case the scale of allowances would usually be lower than those set by a county council controlled by the Socialists. There appeared, furthermore, an increasing amount of laxity in the assessment of need, especially in the extent to which the resources of other members of the recipient's household were disregarded. This was due largely to the fact that the whole cost of the transitional payments was being borne by the national government. All these conditions only served to strengthen the case against local administration. It is not surprising, therefore, that the Royal Commission's proposal failed to receive the approval of Parliament.

The Act as finally passed creates a new national poor law, and a new central agency for its administration. Heading up the new service is the Unemployment Assistance Board, consisting of six salaried members, viz., a chairman, deputy chairman, and four others, appointed by the crown and removable only upon joint

⁸ Actually, there was an even greater diversity, since in the large counties and county boroughs the central public assistance committees of the county councils had delegated for administrative convenience the function of determining need to sub-committees whose determinations were frequently far from uniform.

⁹ These conditions are recited in the *First Report of the Unemployment Assistance Board for the Period Ended, December 31, 1935* (Cmd. 5177), pp. 13-14.

resolution of both houses of Parliament.¹⁰ This security of tenure was granted by Parliament in order to protect the Board from the pernicious political influences which hitherto had controlled the determination of unemployment relief policy, and to insure, as far as possible, an impartial administration of the new service.

Since the phrase "able-bodied unemployed" has so many different meanings, it was necessary to give precise statutory definition to the scope of the service. Accordingly, the Act was extended to all persons between the ages of sixteen and sixty-five capable of and available for work whose normal occupation is employment in respect of which contributions are payable under the Widows', Orphans' and Old Age Contributory Pensions Acts, 1925 to 1932, or who can show that, not having had any remunerative occupation since attaining the age of sixteen years, they might have such insurable occupation but for the industrial circumstances of the district in which they reside.¹¹ In effect, the Act thus applies to all persons previously in receipt of transitional payments and to a large proportion of the able-bodied previously under the care of the local public assistance authorities. It does not, however, cover the whole group of the able-bodied unemployed. It does not include those who normally obtain their livelihood by working on their own account, such as small tradesmen, commission agents, hawkers,¹² and news vendors, or persons disqualified for benefit under the unemployment insurance scheme because of stoppage of work as a result of a trade dispute.¹³ Nor does it provide for persons refused relief for failure to comply with the conditions imposed by the administrators of the Act. These groups must still fall back upon the poor law for their maintenance.¹⁴

Except for the salaries of the central board of administration, the entire cost of the service is to be financed by the new Unemployment Assistance Fund, this to be maintained by the joint contributions of Parliament and the local governments. A rather

¹⁰ The Board is nominally within the Ministry of Labor and acts in close coöperation with the head of that department. The Baldwin government appointed the full quota of six members on July 2, 1934, naming Lord Rushcliffe as chairman.

¹¹ See especially Clarke, *op. cit.*, pp. 216 ff., for an analysis of the Act's coverage.

¹² Such persons are ineligible for unemployment assistance for the period of their disqualification.

¹³ Medical services for those receiving unemployment assistance is also a local charge. This provision was made so as to avoid duplicating the existing facilities of the local authorities for medical care of the destitute.

complicated method is proposed for determining the amount of the local contributions. Until March 31, 1937, each county or county borough must pay a sum equal to sixty per cent of the cost of its relief during the year ending March 31, 1933, to those persons who would have been under the scope of the Unemployment Assistance Act had it been operating at that time.¹⁴ The result was that the local governments were helping to finance a service over which they had no control. In view of the normal practice followed in England, that of providing central grants for a locally administered service, the arrangement was an unprecedented one. It has been decried by some as "taxation without representation," and the local governments in the distressed areas especially resented the failure of Parliament to assume the entire cost of the service. The provision was, however, only temporary, and it must be observed that the great bulk of the expense is borne by Exchequer funds. Three-fourths of the persons coming under the Act are in the transitional payments class whose assistance is financed wholly out of national funds; the local authorities are actually required to contribute funds only in respect of the remainder, originally estimated at 200,000 persons.¹⁵

One of the most interesting provisions in the Act is that creating a system of administrative tribunals for the determination of appeals made from decisions of the Board's officers. For each district, as determined by the Board, there is created an Appeal Tribunal, consisting of a chairman appointed by the Minister of Labor, a representative of the Board, and a representative of the workingmen appointed by the Board from a panel of nominees prepared by the Minister of Labor. The Appeal Tribunal has jurisdiction over all cases arising within its district where an applicant for unemployment assistance is aggrieved by the Board's determinations and lodges a formal appeal against them. Appeals against decisions by officers of the Board as to the application of the Act and against ordinary determinations of allowance lie to the chairman of the tribunal sitting alone. If, however, the chairman has reason to think that there are special circumstances in cases of ordinary determinations requiring consideration, he may grant leave to ap-

¹⁴ In addition, the local governments must contribute an amount equal to the difference between the local administrative costs incurred during 1932-33 and the costs which would have been incurred had the 1934 act then been in effect.

¹⁵ *First Report of the Unemployment Assistance Board, op. cit.*, p. 7.

peal to the full tribunal; and in cases of "special difficulty," that is, those involving disciplinary action by the Board where a recipient fails to avail himself of opportunities for employment or training, appeals lie directly to the full tribunal. The decision of the chairman or a full tribunal is final. The procedure of appeals is governed by special regulations issued by the Board, but the conduct of the hearings is left largely to the discretion of the individual chairman, the aim being to provide, as far as possible, an informal and friendly atmosphere to the proceedings.¹⁶

The Act further authorizes the Board to appoint local advisory committees to represent the lay and voluntary social welfare groups of the community, and to advise the Board's field staff on any problems which the Board may present for its consideration. The establishment of these agencies has proceeded slowly, on account of the Board's preoccupation with the application of the means test, as will be shown below, but the Board seems fully aware of their potential value. The chairman of the Board, in his first report to Parliament, has already indicated the nature of the work for which the local advisory bodies are especially fitted and the lines along which they can be of real value to the service. "One of the problems of administration in the social services of this country," he writes, "is an effective combination of the official organization and the unofficial or lay element. The Board regards its association with the local committees as a definite experiment in this field. What part the committees will eventually play in the administration can be decided only by experience. Questions of housing; the care of the children; the perplexities of the housewife in need of some personal help; cases of exceptional need; the problem of young men and women who are fast slipping into a state of continuous idleness; the proper treatment of applicants who refuse opportunities of work; these and many other problems which have been engaging the attention of the Board afford ample scope for help and advice from the committees and their members."¹⁷

Extremely broad powers of administration are vested in the

¹⁶ Unemployment Assistance (Appeal Tribunals) Provisional Rules, 1934. The Unemployment Assistance (Temporary Provisions) Act, 1935, provided that appeals against the determination of supplementary allowance should lie directly to the full tribunal. The Board has established 138 appeal tribunals. The number of appeals thus far has been somewhat less than was anticipated by the framers of the 1934 act and the Board itself.

¹⁷ P. 17.

Board. In the first place, it receives ample authority to develop its central and field organization, select personnel, and determine salary scales.¹⁸ Secondly, the Board is authorized to frame draft regulations governing the determination of all relief allowances, this authority being subject to several important requirements contained in the Act itself. As a statement of policy and a guiding principle in this all-important work, the Act provides that every allowance shall be determined by reference to the needs of the applicant and of any members of his household who are dependent on or ordinarily supported by him. The vital questions of what constitutes individual need and the manner of its assessment are left to the discretion of the Board, subject, however, to several statutory requirements affecting the computation of individual resources. In computing the available resources of any applicant, the following items, if any, of his income must be disregarded by the officers of the Board: (1) the first five shillings a week of any sick pay from a Friendly Society; (2) the first 7s.6d. a week of any benefit under the National Health Insurance Acts, 1924-32; (3) the whole of any maternity benefit under the same acts, exclusive of additional or second benefits; (4) the first one pound a week of any wounds or disability pension; (5) one-half of any weekly payment of compensation under the enactments relating to workmen's compensation; and (6) capital assets up to twenty-five pounds; with the proviso that additional assets up to three hundred pounds shall be computed as resources at the weekly rate of one shilling for each twenty-five pounds.¹⁹ Finally, before the regulations can go into effect they must receive the assent of Parliament.

III

The Minister of Labor presented to Parliament on December 11, 1934, the first draft regulations of the Unemployment Assistance Board. Under the terms of the Act, the Board was to take over the work of distributing assistance in two stages. On the

¹⁸ The Board has described the manner in which its organization and administrative staff were established. The staff was recruited largely from the ranks of the national and local civil servants. Questions of selection and compensation were determined in consultation with a special inter-departmental committee of civil servants, the Minister of Labor, and the Treasury.

¹⁹ These statutory provisions may be found also in the Unemployment Assistance (Determination of Need and Assessment of Needs) Regulations, 1934, dated December 21, 1934.

"first appointed day," the group receiving transitional payments under the arrangements prevailing since 1931 was to be taken over; on the "second appointed day," responsibility was to be assumed for the remaining able-bodied unemployed persons coming within the provisions of the Act. The first regulations, as approved by Parliament on December 20, 1934, fixed January 7, 1935, as the first appointed day, and March 1, 1935, as the second appointed day. The Board then turned to the formidable task of transferring the first group, then estimated at 800,000 persons, to its own relief rolls.

A brief summary of the principal features of the first regulations will throw light on the nature of the tremendous difficulties which immediately arose. Each qualified applicant for relief was to receive a weekly allowance the determination of which was to be governed by a uniform scale of rates. Speaking generally, the relief allowance represented the difference between the amount which the Board fixed as necessary to provide the applicant and his household with the necessities of life and the amount of the applicant's available resources. The Board's assessments of need were varied in each instance according to the status of the applicant, such factors as age, sex, and membership and position in a household being taken into account. The regulations allowed a householder and mate, for example, twenty-four shillings a week; a single male householder, sixteen shillings; the first additional male member of the household, if aged twenty-one or over, ten shillings; a male lodger aged eighteen or over, fifteen shillings; and a female lodger aged eighteen or over, fourteen shillings. These amounts, however, were subject to adjustment in household cases according to the relation between a so-called basic rent allowance and the actual rent cost. If the rents were more than the basic rent allowance, an increase in the assessment of need up to one-third of the basic rent figure was granted; if less, a reduction equal to the difference was made. In the computation of available resources, on the other hand, the Board took into account all individual or household income *after* disregarding certain specific items. The statutory "disallowances" have already been noted. In addition, disallowances for personal requirements were made to the person contributing from wages or other income to the resources of the household, the amount disregarded depending upon the person's relation to the household. Obviously, the general effect of these rules regarding

treatment of resources is greatly to mitigate the harshness of the means test, despite the fact that a check against excessive relief is contained in the proviso that no applicants are to receive in assistance as much as they would ordinarily earn if "they were following the occupations normally followed by them." In every case, furthermore, the Board reserves the right to adjust the assessment upward or downward where "special circumstances" or "needs of an exceptional character" exist.

The enforcement of the regulations had hardly begun when protests came from all parts of the country. It was inevitable that the replacement of the transitional payments scheme, under which assessment of need was locally controlled, with a centrally operated system involving standard scales and rules for the whole country, would involve some dissatisfaction; but few, especially the Board itself, were prepared for the nation-wide disturbance which it occasioned. Not only were the unemployed openly critical, but public opinion generally was hostile to what seemed to be a rather harsh treatment of the "down-and-outers."

The chief source of grievance was the fact that in a rather large number of cases the Board's allowances were less than had been received under the transitional payments scheme. It was to be expected that under the previous system local authorities might be generous in their assessment of needs, often winking an eye at items of individual or household income. This laxity in administration the Board soon discovered had developed on a surprisingly wide scale. Consequently, many reductions in allowances had to be made. Criticism was directed also against the working of the rent rule, which in numerous instances was resulting in serious hardships. Although the regulations permitted a certain amount of flexibility in determining the rental allowance, the basic rent scales still could not be adjusted sufficiently to meet high rental costs. The situation was particularly unsatisfactory in this respect in the London metropolitan area. In some quarters, also, the operation of the household means test was objected to on the grounds that the requirement that working members of a household contribute heavily to the support of the unemployed members was actually breaking up many homes. More specifically, the objection was that the regulations permitted rather niggardly amounts to be withheld by the working members for their own personal re-

quirements. And growing out of these conditions, the real extent of which was, of course, grossly exaggerated by the partisan representatives of the unemployed, arose the familiar cry that bureaucracy had again reared its evil head—that the service was administered arbitrarily, was impervious to local advice and criticism, and ignored the profound variations in local conditions throughout the country.

In Parliament, government supporters at once joined the Opposition Labor party in demanding a change. The result was the passage in February, 1935, of the Unemployment Assistance (Temporary Provisions) Act, widely known as the "Standstill." An emergency measure designed to meet the new crisis in unemployment relief, it provided, until the regulations could be amended, the most confusing and anomalous arrangement that could possibly have been devised. By its terms, an applicant was to be paid either the allowance which he was entitled to under the existing regulations, or the allowance he would have received if the transitional payments scheme had continued in operation, whichever was higher. Meanwhile, the second appointed day was postponed indefinitely.²⁰

As a result of this action, unemployment assistance entered upon two years of administrative waste, confusion, and chaos. The situation is best described in the Board's own report issued during this period. "The officers of the Board," says the report, "are now administering a complicated double standard, whose results are often not intelligible to the applicant: that of the regulations and of transitional payments. If the standards of assistance of a local authority in relation to the able-bodied unemployed are altered, the Board's officers must follow suit, and in some areas where the number of unemployed chargeable to the local authority is negligible in contrast with the number chargeable to the Board, these standards have been raised avowedly in order to produce an immediate influence upon the amount of assistance given by the

²⁰ The postponement of the second appointed day necessitated the passage of the Unemployment Assistance (Temporary Provisions) No. 2 Act, 1935, under which special arrangements were made for reimbursing the local authorities out of Exchequer funds for the additional local expenditure incurred by the postponement. By a special resolution agreed to on December 8, 1936, the period of reimbursement was extended to March 31, 1937, the date finally set for the second appointed day under the 1936 relief regulations of the Board. See *The Municipal Review*, Vol. 8. (1937), p. 22.

Board. Further, the Standstill Act involves, as a statutory obligation upon the officers of the Board, the continuance of many of the anomalies in the transitional payments position whose abolition was one of the reasons for the creation of the Board. It also requires the Board, in numerous cases, to pay allowances to households, ostensibly on the ground of need, which are simply an abuse of public money."²¹

Meanwhile, the Board was engaged in the task of revising the original regulations in the light of the criticism voiced by Parliament early in 1935. It was quite apparent that the regulations should be made somewhat more flexible, so as to avoid a recurrence of unnecessary hardship, and that the standard scale of allowance for need would have to be liberalized in certain respects. At the same time, the general elections in November of that year had demonstrated that public sentiment supported the Government's position that the "Standstill" should be speedily terminated and uniform standards of relief reestablished.

After many months of painstaking study, the new draft regulations were finally presented to the House of Commons on July 21, 1936. The ensuing debate, which except for one adjournment lasted continuously until the early morning of July 24, has seldom been equaled in the annals of Parliament for acrimonious partisanship and indecorous procedure. The passage of the regulations was a foregone conclusion, but the Labor party of the Opposition, seemingly bent upon making political capital out of the proceedings, launched a vigorous and embittered attack upon the whole principle of the means test. "We can never agree," said Mr. Arthur Greenwood in the opening speech for the Opposition, "to any regulations, however generous they may appear on the surface, so long as the means test stands as a part of the law of the land."²² But the strategy of the Laborites proved a dismal failure both in Parliament and in the country at large. It was impossible to answer in any satisfactory way the continually reiterated query of the Gov-

²¹ *First Report of the Unemployment Assistance Board, op. cit.*, p. 15.

²² *Parliamentary Debates, House of Commons*, Vol. 315, No. 128, column 325. Although carried on in a spirit of bitter partisanship, the debate was not lacking in amusing incidents. One of these occurred in connection with the suspension of three Laborite members, two for calling Sir John Simon "a liar" and one for shouting that the dignified Home Secretary was a "damned liar." The full record of the debate may be found in Vol. 315, Nos. 128-131 (July 21-24, 1936).

ernment spokesmen: "How can you grant assistance to those in need without first determining that need actually exists?"

The new regulations effect substantial alterations in the original relief scales, all being in favor of the applicant for assistance.²³ Allowances for living expenses are raised for certain members of the household, the special reductions for large families in the old regulations are discontinued, and the allowable deductions for earnings for personal requirements are greatly increased. In addition, the rent rules are revised and made more flexible. The chief source of grievance, the basic rent rule, has been eliminated and an entirely new procedure devised for rent allowances. It is now provided that if the net rent actually paid is greater or less than a quarter of the total scale allowance for the household, an adjustment may be made by such sum as appears to the Board's officer, or on appeal, to the Appeal Tribunal, to be reasonable.²⁴

The most significant change in the 1936 regulations is the provision for greater use of local advice in administration. The Board not only agrees to seek the advice and assistance of the local advisory committees over a wider scale generally, but provides for their participation in three specific types of administrative work. First, in the adjustment for rent the Board must seek the advice of the local advisory committees regarding local factors affecting rent, the latter being empowered to make specific recommendations for the increase or decrease of the rental allowance. Second, in any rural area the standard assessments of need may be adjusted according to "the general character of the locality," but the Board in making such adjustment is to give consideration to any general recommendation which the advisory committee for the area may care to make. Finally, the advice of the local committees is to be sought in the liquidation of the "Standstill."

The task of bringing the able-bodied poor under the terms of the new regulations is to take place in two stages. The first appointed day was set for November 16, 1936. At this date, the

²³ For an analysis of the 1936 regulations, consult the *Memorandum by the Minister of Labor* (Cmd. 5228) and the *Explanatory Memorandum by the Unemployment Assistance Board* (Cmd. 5229).

²⁴ Special consideration is given also members of households. Regulation IV provides that they shall receive not less than the amount they would have received for unemployment benefit, except for reductions in the Board's allowances on account of rent or other special circumstances.

"Standstill" was brought to an end, and the Board placed under the new relief scales the old transitional payments group of the unemployed. While the new scales are on the whole more liberal than those of the 1934 regulations, they will in some instances cause a reduction in the allowances received under the "Standstill." For this particular class of cases, a period of eighteen months' grace is granted, during which the Board will gradually bring the old allowances into conformity with the 1936 regulations. It is in this work that the central authorities are now consulting with the local advisory committees concerning the manner in which adjustments in their respective areas are to be made. The remaining able-bodied persons coming within the terms of the 1934 Act, that is, those who have continued to remain in the hands of the local authorities, were to be taken over on April 1, 1937, the new second appointed day.

Thus unemployment assistance as a standardized national undertaking is once again set into operation. In the light of the changes embodied in the revised scales of assistance and rules of administrative procedure, it appears that an important beginning lesson has been learned. Two years of legislative confusion and administrative waste have served to demonstrate that a nationalized program of non-contributory relief for the unemployed must be sufficiently flexible to fit the infinite variations in local conditions throughout the country, and that in the adjustment of the service to local needs its administrators must make the utmost effort to secure and act in accordance with the advice of the representatives of the localities themselves. Immeasurably aided by this knowledge, the new service is now ready to face the task of the future—the development of permanent and stable foundations. The initial stage has been weathered, but larger and more difficult problems are yet to be faced.

IV

Any program of state assistance to those who cannot find a normal place within the nation's economic structure must today be visualized as a permanent enterprise. Continued unemployment on a wide scale may not be a permanent social evil, but unfortunately there is as yet little reason to believe that this will not be so. What, then, are the problems which sooner or later will demand effective solution if Britain's latest attempt to improve her social

services is to prove permanently successful? What are the pitfalls to be avoided if the most important experiment in able-bodied relief since the beginning of the poor law is not to end in stalemate, a lavish waste of public funds, and ultimate failure—an event fraught with the most dangerous social and political consequences? These are large questions. They affect the very foundations of a democratic government struggling to survive the stresses and strains of modern economic and social maladjustment.

The task which lies immediately ahead is largely an administrative one. Essentially, it is a problem of administrative coöperation, whose essential features are peculiar to the circumstances under which the new service was erected. This service was literally carved out of the two existing services of national unemployment insurance and local poor relief. From each of these a large slice was taken, the two portions were joined, and the result was called unemployment assistance. An entirely separate and independent organization was in this manner placed in the field of social welfare already crowded with governmental agencies, national and local. Amidst the welter of organizations performing a very wide variety of social duties, unemployment assistance must find its way.

In a great many ways the work of the Unemployment Assistance Board is closely tied up with, or directly affects, the activities of other welfare authorities. The Board, for example, must constantly check with the Ministry of Labor and with the unemployment exchanges the records of new applicants who, having exhausted their insurance benefits, must be transferred to unemployment assistance; reëmployment opportunities must be the common knowledge of the officers of the Ministry and the Board; and provisions for training the unemployed must be made by the two authorities acting jointly if needless duplication of effort is to be avoided.²⁵ Likewise, the Board must coöperate continually with a variety of local administrative agencies in promoting the welfare of the unemployed and their dependents, this being a duty which it is required to perform in addition to the work of relieving their material needs. Where medical care or institutional treatment

²⁵ At the present time, the Board is making relief payments through the offices of the employment exchanges and is utilizing the training centers maintained by the Ministry of Labor. It also has facilitated industrial transference, a function of the Ministry of Labor, by making special allowances for that purpose to some of its own applicants.

is required, the local public assistance and public health authorities must take charge, and in cases of malnutrition among children, or of overcrowding and bad housing, the coöperation of local education and housing agencies must be enlisted. In addition, the Board, like all other public welfare organizations, must keep in constant touch with the voluntary welfare agencies of the community by providing facilities for the mutual exchange of information and joint consideration of individual and family welfare problems.²⁸ The Board's proper handling of inter-relationships such as these will involve the careful elaboration of various types of machinery and many different techniques of coöperation, as well as an abundant supply of tact and patience on the part of its own officers.

In its larger aspects, the administrative problem will be to provide the nation with the benefits of centralized direction without sacrificing local initiative and local interest. It is by no means certain that the arrangement under the 1934 act will satisfactorily meet this test. Widespread dissatisfaction is bound to arise in the long run with the operation of a service which so vitally concerns the local governments, but over which they exercise no real control whatever. It is still highly doubtful whether a national scale of assistance can be devised which in its administration will be sufficiently flexible to meet the great diversity in local conditions and in individual need prevailing throughout the country. Future experience may, in fact, demonstrate that a permanent system of unemployment assistance must, in the final analysis, be locally controlled and administered if the best results are to be achieved.

These considerations lead to the conclusion that Parliament, in deciding against the plan of administration outlined in the final report of the Royal Commission on Unemployment Insurance, made a serious mistake. This plan would have made the operation of unemployment assistance a direct and primary responsibility of the local governments. Moreover, by providing for strict central supervision under a system of national grants-in-aid, it would have offered the means whereby both a minimum standard of local administration and a sufficiently equitable distribution of the financial burden involved could have been maintained. It may not have been politically feasible in 1934 for Parliament to follow

²⁸ The local advisory committees are to be used especially for this purpose.

the Commission's proposal. In point of fact, the decision to ignore it smacks of political opportunism. The pressure of the unemployed and their sympathizers, and of the local governments themselves, was more than Parliament could withstand. But the consequent breaking away from the tradition of local responsibility so firmly imbedded in the old poor law was no less sudden than it was complete. Can it be a wise policy to ignore so completely the precept of reason and experience that public provision for the destitute must be a direct concern of the community in which they reside?

One final observation may be made. The ultimate test of any program of public assistance for the able-bodied unemployed is its effect upon unemployment. If it is to be an effective instrument in the much greater national task of reemployment, the conditions under which it is maintained must be such as will discourage any disposition on the part of those receiving public support to avoid whatever employment opportunities are made available. The morale of the relief recipient must, of course, be protected by adequate provision for training facilities and employment services, but the primary objective in public assistance is missed if he is encouraged to remain in idleness. Essentially, this means that relief must be made an unattractive proposition, that its conditions must be such as will deter one from looking to it for maintenance, and at the same time will encourage those who become dependent upon it to make every effort to return to self-support. Considerations of public policy demand that this stern principle of deterrence be heeded. Its relaxation leads to indiscriminate alms-giving, a fostering of indolence, and a waste of public funds. To ignore it is to open the way to the development of a new and formidable special interest group in politics the members of which, proclaiming the pernicious philosophy of relief as an inalienable right, will exert a constant pressure upon their political representatives to enlarge their measure of the state's bounty.

It can scarcely be denied that the new service in its present form fails to measure up to this guiding principle. Although its administrators have ruled that no applicant should receive in assistance as much as he could ordinarily earn, in actual practice the allowances have in some instances so closely approximated the applicant's net earning capacity that the result has been to diminish both his eagerness to obtain work and his reluctance to relinquish relief.

The number of such cases is thus far comparatively small, but their existence is none the less an ominous fact. Moreover, the salutary effect which this rule might have upon an applicant's disposition to remain idle is greatly impaired in other instances by the statutory requirements that certain items of his income, including health insurance benefits, disability pensions, and workmen's compensation, must be entirely ignored in determining the amount of his need.²⁷

Thus there is grave danger that Great Britain's latest experiment in social welfare may not realize its underlying purpose. Disregard of the principle of deterrence in dealing with cases of prolonged unemployment was a principal factor in the collapse of the insurance system in the twenties. When this was recognized, a means test was introduced into the system in 1931, and later included in the provisions of 1934. But the pernicious consequences of the "dole" policy still remain. The complete endorsement and vigorous enforcement of a true test of need is yet to be achieved. The break-up of the old poor law was doubtless inevitable in view of the irresistible modern demand for additional and more highly specialized social services; but the new nationalized poor law that now emerges need not abandon the wisdom of the old. Large issues are here at stake. On their proper determination the development of a constructive and sound relief policy for the nation will largely depend.

²⁷ The origin and development of the practice of disregarding specific portions of income are, in fact, to be found in the poor law system. The Outdoor Relief Acts of 1894 and 1904 provided for the disregarding of friendly sick pay in granting outdoor relief, and the National Health Insurance Act, 1924, extended the practice to health insurance benefits. In the Poor Law Act, 1934, it was further extended to cover trade union sick pay and wounds or disability pensions. As the London poor relief authorities have indicated, the cumulative effect of these provisions is to render eligible for relief persons who *prima facie* are not destitute. In some cases, the income which must be ignored is as high as 32s. 6d. a week. See *Annual Report of the London County Council on Public Assistance*, 1934, Vol. I, Part 2, pp. 12-13.

REFORM OF THE COVENANT OF THE LEAGUE OF NATIONS

CLYDE EAGLETON
New York University

Almost from the creation of the League of Nations, there have been proposals for its reform; a few amendments to the Covenant have actually been adopted. Discontent with the League's achievements in the recent dispute between Japan and China and that between Italy and Ethiopia have of late brought the discussion to a head, and have led to official action by the League itself. According to the British Foreign Minister, in a speech before the Assembly on September 25, 1936:

The underlying motive for the work on which we are now engaged, of examining the Covenant and the procedure of its application, is the recent failure of the collective action of the Members of the League to achieve the prime object for which it was undertaken.

And M. Litvinoff, speaking three days later, asserted that the question

did not arise in any academic way, but was brought into existence and imposed upon us, both by the unhappy outcome of the Italo-Ethiopian conflict and by the whole course of the political events of recent years.¹

At the meeting of the Council on June 26, 1936, the Chilean delegate proposed that a study of the reform of the Covenant be undertaken; and he proposed it likewise at the 16th Ordinary Session of the Assembly, in July, 1936. Discussion at this session did not reveal much enthusiasm for reform. Nevertheless, the Assembly on July 4 adopted a recommendation which noted "that various circumstances had prevented a full application of the Covenant;" declared that it remained "firmly attached to the principles of the Covenant," but that it was "desirous of strength-

¹ The sources for the quotations employed in this article are easily found, and it does not seem necessary to give citations in each individual case. Where a speech is quoted, the date will indicate where it is to be found in the *Records of the 16th Ordinary Session of the Assembly*, Part II, June 30-July 4, 1936, or in the *Verbatim Record of the 17th Ordinary Session of the Assembly*, September 21-October 10, 1936. Where the text indicates that the written reply of a government is being quoted, it will be found in the League of Nations document, "Application of the Principles of the Covenant of the League of Nations, Communications from Governments" [1936. VII. 9]. These replies of governments may be found analyzed in another League document, "Study of the Proposals Submitted by Members of the League" [1936. VII. 8].

ening the authority of the League of Nations by adapting the application of these principles to the lessons of experience;" and recommended to the Council that it should invite the members of the League to send to the Secretary-General any proposals which they might wish to offer "in the spirit or within the limits laid down above," these proposals to be reported to the Assembly at its September meeting. All this having been done, the Assembly on October 10 decided to set up a committee to study the proposals of the governments, and to make a report "indicating the definite provisions, the adoption of which it recommends."² This Committee is now at work, having held a session in December.

The problem is a very complicated one, from whatever angle it is approached. Limitations of space permit discussion of the official proposals only, though wide consideration is being given to the problem in unofficial quarters as well.³

It must be noted, in the first place, that there is little complaint concerning the fundamental principles of the present Covenant. Many governments asserted positively that no reform was needed; that the difficulty lay not in the Covenant but in the members. Thus the reply of New Zealand was a confession of faith:

We believe in the first place that there is no material fault in the existing provisions of the Covenant and that the difficulties that have arisen, and may arise in the future, are due to the method and the extent of its operation. We believe that the Covenant has never yet been fully applied and that it cannot be characterized as an ineffective instrument until it has been so applied. We are prepared to affirm with the utmost solemnity our continued acceptance of the Covenant as it stands.

The Soviet Union protested that "revision of the Covenant of the League cannot at the present juncture be regarded as justified by circumstances;" Latvia "regards the juridical system of the

² [1936. VII. 13.]

³ Unofficial discussions, among many, may be found in the publications of the British League of Nations Society; the *Chronicle of World Affairs* published by the League of Nations Association, New York; the Federation of League of Nations Societies; the New Commonwealth Society (England), especially in the *New Commonwealth Quarterly*, September, 1936; Geneva Special Studies, "The Covenant and the Pact," Vol. I, No. 9 (December, 1930), and "Reform of the League of Nations," Vol. V, Nos. 7-8 (1934); J. T. Shotwell, *On the Rim of the Abyss* (New York, 1936); *The Future of the League of Nations*, Record of a Series of Discussions at Chatham House (Oxford University Press, 1936); "L'éventuelle réforme de la Société des Nations," by Jean Ray, in *Revue de Droit International et de Législation Comparée*, Vol. 17, No. 2, 1936.

League as entirely adequate." Mr. Anthony Eden, in his speech of September 25, said:

Reflection shows one thing clearly—there is nothing essentially wrong with our charter, the Covenant of the League of Nations. Its general principles are right; it forms a logical and reasonable system which should not be incapable of practical application.

France had, from the beginning, been unwilling to accept any reform which would make of the League "merely an academic consulting body."⁴

Only a few states offered criticism. Italy, in a communication to the League at its summer session, asserted that the League needed reform, and was willing to assist in achieving it. Hungary admitted "shortcomings, some of a very serious nature," in a speech of September 28. Panama denounced the League as a failure, but apparently because of the attitude of its members. Other states, while affirming devotion to the principles of the Covenant, made suggestions which would vitally change it. Thus the Rt. Hon. MacKenzie King, speaking for Canada on September 29, said:

Canada comes to the League of Nations today with a desire to reaffirm her adherence to the fundamental principles of the Covenant. . . . At the same time, there is general concurrence in the view, which has been expressed by leaders of all political parties since the beginning of the League, that automatic commitments to the use of force is not a practical policy.

And Canada continued to attack Article 10, and to express hesitation as to common action against an aggressor.

These expressions of conviction, with the few exceptions thereto, explain the terms of the Assembly recommendation quoted above. The Assembly is "firmly attached to the principles of the Covenant;" it seeks to make more effective the guarantees of security; it proposes to strengthen the authority of the League; and it would do this, not by important changes, but by "adapting the application of these principles." Subsequent action under this recom-

⁴ This attitude was taken by most states. The Chinese government "believes that what is needed is not a revision of the Covenant, but only an elaboration of the methods and procedure for the realization of the principles already embodied therein" [1936. VII. 10]. M. Krofta, speaking on September 29, asserted that "as regards the reform of the League, the states of the *Petite Entente* do not think the Covenant should be altered." Cuba, Iraq, Sweden, Australia, and others expressed similar views.

mendation is entitled in League documents "Application of the Principles of the Covenant of the League of Nations." Thus the terms of reference would seem positively to forbid any change of principle, or any effort to weaken the League, and to permit only such changes as would improve the application of the existent principles.

This feeling is apparent, too, in the discussion of the method of procedure. Revision, of course, is rigorously excluded; most governments are opposed even to formal amendments.⁵ The Danish government replied that "it is neither necessary nor possible to amend the Covenant." France was not willing to "call into question any of its principles and thereby to weaken both its influence and its action," by proposing amendments. Lithuania hoped that "the present wording of the articles of the Covenant will be left intact." Most states expressed some such feeling, though some, at the same time, made suggestions which could be realized only through amendment. Apparently it is believed that the ends desired can be reached through interpretation. Thus, General Tanczos of Hungary, on September 28, argued that a serious attempt should be made to perfect the principles of the Covenant "without any radical modification of the Covenant itself, by means of interpretative resolutions for which the League's antecedents offer us certain guiding lines."⁶

In spite of this opposition to formal or fundamental change, some of the proposals could hardly avoid producing such change. The most common and fervent desire was for universality; it had

⁵ The reason for this attitude is perhaps to be found in such unofficial statements as that of Madariaga: "All attempts at subordinating League reform to a new ratification of the Covenant by the governments concerned is not only impracticable but positively dangerous, for I feel that few, if any, governments would re-sign the Covenant if they had an opportunity to do so." M. Rappard had the same feeling: "To propose the method of formal amendments to the Covenant today would therefore, I am afraid, be to dig the grave of the League." See their comments on a proposed revision of the Covenant in the *New Commonwealth Quarterly*, Vol. 2 (1936).

⁶ Cf. the comments of Madariaga, Salter, and Politis, in the work cited in the previous footnote; and the argument of Sir Arthur Salter in a Chatham House discussion (*The Future of the League of Nations*, Oxford University Press, 1936), p. 67, including the following: "If countries really mean business, they can act without any actual change in Article 11. There is nothing to prevent countries which have come to a decision as to what is to be done in a particular case from putting that decision into effect because one or two dissentients stand out. They can act as if that decision had been a formal and legal one under Article 11." (At this point Sir John Fischer Williams indicated agreement).

been for this purpose that the Chilean delegate made his original proposal, and he repeated, on October 2, that "lack of universality was bound to make it impossible for the League to carry out the task which the Covenant had allotted to it." Mr. Eden, in his speech of September 25, said: "The authority of the League has without doubt been greatly impaired by the fact that its pronouncements do not have the weight of a verdict of universal world opinion." It was repeatedly emphasized that the task of the League was rendered unduly difficult, if not impossible, by the absence from its membership of important states.

But how could universality be secured? The Portuguese delegate, speaking on September 30, admitted his realization that "we shall have to provide for forms of coercion, not only against the aggressor, but also against those who will not accept the League's decisions" (to apply sanctions), and then despairingly said: "This task seems to me for the time being beyond us." The Baltic and Scandinavian states asked for study of the question, and urged that unremitting efforts be made to induce non-members to join the League.⁷ This, however, only begs the question: how can they be induced to join? The Swiss government replied: "Such changes as may be made should render it easier for countries which are not members of the League to join it, and for those which have left it to return . . . what the Covenant would lose in juridical substance it would gain in moral force;" and, they argue further: "a League that is not universal is not merely a weaker and less effective institution, but an institution whose character is liable to deteriorate. . . ."

This is one side of the question, and Switzerland stands almost alone in so clear-cut a statement of the view that the League should be weakened. On the other hand, many states were of the opinion expressed by Estonia in her reply: "While no effort should be spared to make the League more comprehensive, care should be taken to avoid any such compromise as might reduce the power of the League and weaken its influence." And M. Litvinoff, speaking for the Union of Soviet Socialist Republics on September 28, made a vigorous protest:

⁷ M. Münch of Denmark, speaking before the Assembly on September 28, said: "If the United States could decide to join it, the effect in favor of the stabilization of peace would probable be decisive. If it is impossible for the United States to participate as a member, we must at least try to devise means to enable the United States to share in measures to prevent war, should the eventuality arise."

I would ask the supporters of 'universality at any price': Must we sacrifice all the fundamental principles of the League in order to adapt it to the theory and practice of such a state, or must we invite the latter itself to adapt its principles to the present ideology of the League? My reply, at any rate, is: Better a League without universality than universality without League principles.

Thus an issue is presented; in fact, a dilemma. Universality, in the view of all, is essential; most would ascribe the failure of the League to the absence of important states, particularly the United States. But most, too, are anxious to maintain, and indeed to increase, the strength of the League against an aggressor; and it seems clear that if the coercive action of the League, and the obligations of members toward this end, are maintained, it will be impossible to induce the United States, or Japan, or Germany, to enter the League, and indeed, that it might cause the desertion of other states, such as Italy. On the other hand, if the power of the League to protect them is taken away, many states would have no further interest in the institution.⁸ So the question may be stated: Should the League reduce itself to machinery for international coöperation and content itself with the hope that from this coöperation there might arise voluntary efforts to protect its members against aggressions; or should the League maintain its sanctions and its authority to preserve peace and order, with the probable result that the world would be split into two opposed and armed groups?⁹

A very few states, such as the Soviet Union or New Zealand, would take the risks involved in maintaining the Covenant; still fewer (Switzerland almost alone) expressed a willingness to reduce the powers of the League in order to achieve universality; others could offer only vague hopes for a solution. But to quite a number the way out was to be found in regional organization. This was particularly true of the Latin-American states; it was the viewpoint of Chile, upon whose initiative the study was undertaken. Her delegate, on October 2, told the Assembly that "such regional

⁸ Nevertheless, it is probably true that the League as machinery for international coöperation is by now indispensable in the community of nations, and that it will be maintained and will claim the support of all states, regardless of what happens to its political powers.

⁹ It may be suggested, without over-much cynicism, that such a split will occur in any event, and that it may as well be upon the basis of those who wish to maintain law and order as against those who seek to achieve their ends through violence.

organization, provided it bears no characteristics of a political or military alliance, is perhaps the most active means of making universality a living force;" and he offered his whole-hearted support to the plan offered by the Argentine Republic. What the latter government seeks is formulæ "for ensuring the coöperation of these countries [the non-member states] in efforts aimed at the maintenance of peace." This could be done by acceptance of the Argentine Pact of Non-Aggression and Conciliation;¹⁰ or by generalization of the provisions of Article 4 of the draft Treaty for the Maintenance of Peace submitted to the Buenos Aires Conference. According to this system, states members both of the League and of the Saavedra Lamas systems would ask states not members of the League to coöperate in anti-war measures or in the sanctions of the League; the non-member states would decide for themselves whether coöperation should be undertaken, and whether such collaboration should be in the form of joint coöperation or of unilateral acts of assistance.

The Argentine proposal is the most elastic of those which seek universality; it does not even presuppose that non-member states will enter the League, and only indirectly is it regional in character. Other suggestions look not so much toward coöperation with non-members as toward a League system in which obligations would be so reduced that non-members might be induced to join. Colombia proposed decentralization into groups such as the European Union or the Association of American Nations; and

The regional or continental associations would deal with problems of an exclusively regional or continental nature, and the procedure applied by them will, in the first instance, be that provided for in Article 15 if there arises between the states members of these associations a dispute likely to lead to a rupture. The associations would also be instructed to take steps to maintain peace in case of a local war or threat of war.

The reply of Uruguay took a similar position:

¹⁰ This would create a "juridical link between the League and the non-member states." "It is necessary to bear in mind the fact, perhaps insufficiently appreciated in Europe, that the American nation made no objection to subscribing to the obligations embodied in the Argentine Pact. Consequently, this instrument proposed for universal adoption enables each acceding state to rely, for the high purpose of conciliation and harmony, on the invaluable coöperation of the great nation to which the Geneva institution indirectly owes its creation." Quoted from the preface to Dr. Saavedra Lamas' work, *The Argentine Pact of Non-Aggression and Conciliation* (published by the Ministry of Foreign Affairs of the Argentine Republic), by the Secretary-General in his study of the proposals submitted [1936. VII. 8].

When a conflict breaks out, the countries situated in the zone affected or those most directly interested in the consequences of the crisis will have to assume corresponding obligations, while all the other nations will subordinate themselves to the action of these countries.

Many other states, with more or less enthusiasm, accepted the idea of regional organizations, but always with caution, for fear that such organizations might, as Hungary said, "lead back to the old system of military alliances;" and always with the condition explicitly stated that they should not be inconsistent with the obligations of the Covenant.

The purpose behind these proposals was to maintain the principle of collective action, while at the same time reducing the burden of such action upon members, so that they might be more interested and more sincerely willing to execute their obligations than they had been in the two recent crises. Some, indeed, hoped that the effectiveness of sanctions would thereby be increased rather than diminished. In any case, the chief issue involved was that of sanctions; and it is in connection with Article 16 and its methods of application that these proposals must be discussed.

As to the principle of collective security laid down in that article, there was little if any dissent, though there was a vast amount of pessimism and discouragement.¹¹ Most of the states hold that this is the most important principle in the Covenant; most of them would like to see it applied more effectively, though they are exceedingly puzzled as to how this is to be done. Many of them would relate this article to other functions of the League. Peru maintained that its success depends upon legal equality of members. Others, as Hungary in her reply, or Australia in a speech of September 29, were convinced that Article 19 must be made effective before collective security could be achieved. Argentina would tie Article 16 to Article 10; China would tie it to both Articles 10 and 11. The Scandinavian states and France, among others, claim that "disarmament is the measure of full collective security."

It is with the question of practical means of applying the prin-

¹¹ In his study of the replies of governments, the Secretary-General lists Argentina, Peru, and Switzerland as throwing doubts upon the principle of security. Perusal of their replies seems to indicate that they are pessimistic rather concerning the method of achieving this security, i.e., sanctions. This, perhaps, was what was meant in the report of the Secretary-General, since the remark is found under the heading of Article 16.

ciple of collective security that divergences of opinion and discouragements appear. A number of the replies strike at what is without question one of the chief weaknesses of the League machinery, as interpreted by the Assembly resolutions of 1921: each member was left free, by these resolutions, to decide for itself when its obligations under Article 16 should go into effect. The replies of governments and the speeches of delegates emphasize the necessity of preparation in advance, and of automatic sanctions. Thus, Colombia writes: "The economic and financial sanctions referred to in Article 16 would come into force automatically as soon as the competent organs of the League had determined the aggressor." New Zealand, in her carefully considered reply, asserted that sanctions will be ineffective "unless they are made immediate and automatic." Other states proposed that time-limits be set for such action. The Lithuanian reply asked that "the duration of the procedure previous to the actual coming into play of the safeguards of the Covenant shall be reduced to a strict minimum;" and the U.S.S.R. proposed that the Council should assemble within three days, and should give its decision within three days after its convocation. The Baltic states proposed, in order to speed up the procedure, that the rule of unanimity should not be applied under Article 16; decisions should be taken by majority, or three-fourths vote, or else the votes of the interested parties should not be counted.

At this point, of course, arises the much discussed question of defining the "aggressor." This much-abused phrase has come to mean, in League procedure, determining which state has resorted to war in disregard of its covenants; in other words, the aggressor is the covenant-breaker. Only one state offered a definition; the Soviet Union recommended the definition which it had proposed on May 24, 1933, and which was adopted by the Committee on Security of the Conference for the Reduction and Limitation of Armaments. Such other states as referred to the matter did no more than ask for a definition of aggression; and it seems correct to interpret this request as a desire for a more precise method of determining the state against which Article 16 was to be applied.

With regard to sanctions, a sharp distinction is made between economic and military measures. The Swiss government objected to the present economic sanctions because they produce inequalities:

Although the obligations assumed by each party are theoretically identical, their effects differ greatly according to whether they apply to a Great Power or to a country with more limited resources. It seems to us essential that a fairer balance should be established between the risks incurred by the former and by the latter.

The Swedish government, in its reply, regarded it as impossible to apply economic sanctions effectively, because of the "tension which prevails in the general political situation, the incompleteness of the League, and the continual increase in national armaments." Other states, too, are discouraged; but none, it appears, urges that the system of economic sanctions be discontinued. It is frequently asseverated that they have not had a fair trial, and that they could be made effective. Various states demand that a detailed plan for their application be prepared beforehand, and that member states provide the necessary domestic legislation so that they can act promptly.

One of the lessons learned from recent experience is that the application of economic sanctions imposes unequal, and sometimes disproportionate, burdens and risks upon the states applying them. This was the feeling of the Swiss government, as above quoted. New Zealand is of the opinion that sanctions must take the form of a complete boycott if they are to be effective; most states, however, are willing for the economic restrictions to be gradual in their application. The Soviet Union, for example, would allow the Council to determine by majority vote not only the application of the measures contemplated in Article 16, but also their extent and execution. Again, it is suggested that differentiations must be made as between states applying sanctions. Peru would have economic sanctions recommended only to such states as can put them into effective operation. The Lithuanian government is of opinion that the universal assistance to be afforded to a victim of aggression should not be limited to negative acts, but "should also be positive in the form of political, financial, and economic assistance to be granted to the victim of aggression." The Soviet Union went so far as to ask that "any member of the League who fails to participate in economic and financial sanctions may be subjected to measures of customs and trade discrimination on the part of the other states members." A number of the replies asked that the Convention for Financial Assistance of October 2, 1930, be made more effective.

While the members of the League seem willing to maintain eco-

conomic sanctions in support of collective security, they are not so willing as regards military sanctions. The government of New Zealand is "prepared, to the extent of our power, to join in the collective application of force against any future aggressor;" and the delegate of Portugal told the Assembly, on September 30: "Abandon once and for all the use of military sanctions, and you will have abandoned international order." But, for the most part, states either reject explicitly any further obligations in this field or recognize the impossibility of securing such action and seek to find some method other than universal obligation. The Scandinavian states were definitely unwilling to accept obligations which might go further than those already contained in the Covenant. The Argentine government thinks that military sanctions should not be binding upon members not implicated in the dispute. The Swiss government considers the objections to Article 16 well justified, and in any case relies upon the country's long established neutrality to escape any such obligations. The Rt. Hon. W. L. Mackenzie King, in a speech to the Assembly which balanced Canada precariously on the fence, reaffirmed adherence to collective security and pointed out that Canada had always opposed automatic commitment to military action, but denied that Canada would never participate in common action against an aggressor; such action must in each case be subject to approval by Parliament.

To meet this situation, states which had long believed in the necessity of military action against an offender sought to find ways and means of securing this action. One method, which would presumably satisfy Canada,¹² is to permit, rather than require, members to take military action if they so desire. In order to strengthen this possibility, members might be authorized by the League to make use of military force in cases where their interests coincided with those of the community. The action thus taken might be somewhat haphazard, and would not constitute a firm foundation for international government. But it would be better than abandoning entirely the idea of coercive force against a law-breaker.

Another method, which received the most support, was the idea of regional organization mentioned above. If far distant or uninterested members were unwilling to render military assistance, per-

¹² Perhaps also the United States, in view of the Pope Resolution. See footnote 17 *infra*.

haps those with regional or other interests would feel impelled to do so. France, always a supporter of strong sanctions, would restrict "to the Powers which are nearest, geographically or politically, to the Power that is attacked" the risk involved by military assistance. She explained further, in her reply, that a regional understanding is "any group whose union is based upon geographical situation or upon a community of interests." Many other replies favored such a solution. Uruguay refers to "the countries situated in the zone affected, or those most directly interested in the consequences of the crisis." Colombia speaks of regional or continental associations which would deal "with problems of an exclusively regional or continental nature." M. Krofta, speaking for the Little Entente on September 29, hoped that the League would encourage the application of the military obligations under Article 16 by "collaboration between states whose vital interests may be threatened by a violation of the undertakings entered into under the Covenant." The Soviet Union works toward the same end through a divergent road: "mutual assistance agreements between states concerned in the maintenance of security in specific areas;" military sanctions, under its plan, would be obligatory upon the parties to such agreements, and could also be undertaken by such other states as wish to follow the recommendation of the Council.

All who tend in this direction emphasize that such arrangements shall be "in the spirit of the League, and under its aegis;" or, as Latvia put it, that they should be complementary, not substitutive. All are on guard against the unauthorized misuse of military force, and against a division of the world into the old selfish military alliances. It is recognized, too, to some extent, that this division of obligations cannot refer to economic sanctions, which must be universal if they are to be effective. Thus, New Zealand does not approve of regional pacts, but would be "prepared to support a collective system in which all members of the League, while accepting the immediate and universal application of the economic sanctions contemplated by Article 16, nevertheless, if they desired to do so, should restrict to defined areas their undertaking to use force." The reply of the Iraqi government also proposed "that, while obligations to enforce economic and financial measures should remain world-wide, obligations to take military measures should be regional in scope and agreed upon in advance among states whose

geographical position gives each an immediate and overwhelming interest in the fate of any of the others."

To many states, however, it is more important to prevent than to repress war; and their statements deal more particularly with Article 11, Article 19, and others. The Scandinavian states, supported by England, France, and others, would resume the study of disarmament since (in the view of some of these) coercion by the League is rendered more difficult if powerful national military organizations exist for resistance. Secretary Eden, in his speech of September 25, sought to find "some method of enabling the League to intervene more effectively in the early stages of a crisis." Article 11 would offer opportunity for useful action, except for the rule of unanimity. He thought it all-important that members of the Council should state their opinions at an early stage:

If at the outset, or at an early stage of the dispute, the parties are left in no doubt of the will of the Council and of the determination of member states to enforce it, this must act as a powerful deterrent to any party contemplating aggression in violation of the Covenant. And the earlier such party is brought to realize the situation, the easier it will be for him to modify his attitude and to conform to what the Council may recommend.

Many other states took the opportunity to underline the importance of Article 11, which is now recognized as one of the most useful articles of the Covenant. The chief difficulty in using this article is that unanimity is required. Many states, therefore, such as Great Britain, proposed that the votes of the disputants be not counted. M. Delbos, speaking for France, on September 26, expressed a willingness to accept such a proposal as "an exceptional departure from the rule of unanimity."¹³ Some states, as Latvia and Norway, would leave the decision to a majority vote; others, as China, ask merely for a relaxation of the rule. Several states suggested that a system be elaborated, for the guidance of the Council, for putting into effect Article 11. In this connection, it was suggested that such

¹³ In a speech before the Assembly on July 3, 1936, he had said: "The French government, however, does not attack the unanimity rule in general; it does not forget that the League of Nations respects the sovereignty of states. Moreover, the consent of those concerned is essential when there is a proposal to take measures which have to be applied upon their own territory, or which, in any case, call for their collaboration." The Uruguayan and Peruvian governments also upheld the rule of unanimity, though the latter was willing to drop it in the use of Articles 15 and 19.

endeavors be correlated with the Convention (of September 26, 1931) to Improve the Means of Preventing War.

In all this discussion, there is no proposal which might be connected with the principle (though not with the motive or purpose) of the neutrality legislation recently passed in the United States; that is, of taking action against both parties to the dispute. The principle upon which the League operates is that the law-breaker must be determined before coercive action can be undertaken against either. It has, however, always seemed natural to the writer to draw an analogy from domestic government; and here the first measure taken in case of a conflict between individuals is to prevent or stop the use of physical violence by *either* party of the dispute. Decision as to which is the aggressor, or upon the merits of the dispute, follows later. Under its present constitutional system, the League of Nations finds it difficult to intervene against a use of force until it has first decided which party is in the wrong. It is at least worthy of consideration whether new principles and machinery should not be added which would enable the League to halt *any* use of violence between states—*any* war, not merely aggressive war—without waiting to decide the dispute upon its merits, which is necessarily a slow job. It is conceivable that the United States might be willing to adopt, or that its present legislation might lead to, auxiliary if not coöperative measures to prevent the use of force by both parties, even though she should be unwilling to participate in later measures, if they were necessary, against an aggressor.¹⁴

In spite of the wide discussion of peaceful change and the neces-

¹⁴ In a recent discussion at Chatham House, Lord Howard of Penrith said: "There is thus only one way in deciding how the League should act if action is to be taken to stop war, and this is to declare beforehand that, as soon as hostilities break out between two sovereign nations, no matter where, why, or when, that international body which shall be chosen for the purpose by the nations of the world, acting collectively, will notify the belligerents that unless they submit to sign an armistice within a given time and submit their dispute to some peaceful settlement, certain well-understood economic, financial, and other non-military sanctions will be applied to them, and continue to be so applied until they are willing to agree to cease fighting. If one declares himself to be so willing, sanctions will be raised as against him." *The Future of the League of Nations*, Royal Institute of International Affairs (Oxford University Press, New York, 1936), pp. 91-92. And Professor Jessup, at the International Studies Conference, remarked: "If a policeman came on the scene, and found them both struggling, he would take them both off to the station house until a magistrate had decided which was the aggressor." M. Bourgin, *Collective Security* (Oxford Press, 1936), p. 435.

sity of making provision for it, few constructive proposals appeared concerning Article 19. A number of states, especially Hungary, regard the problem as of great importance, and are anxious to have something done. Peru and Norway suggest that the rule of unanimity be not applied to that article. Mr. Eden, while recognizing the situation as a principal failing of the League, asserted that "it would plainly be impracticable to seek to give the Assembly power to impose changes against the wishes of the parties concerned." The delegate of the Soviet Union, in his speech of September 28, averred that reconsideration of a treaty is possible only with the consent of the interested parties, as in the case of the Straits Convention. The problem was attacked from a different angle by various proposals to improve international trade and co-operation. Denmark asks for a committee of experts to study the problem of raw materials; Iraq is interested in the question of surplus population and colonial possessions; Denmark and Norway wish to study monetary questions; others seek closer understanding through use of the radio, etc.

Other proposals must, for lack of space, be summarized briefly. There was little opposition to the idea of separating the Covenant from the Peace Treaties; the Austrian delegate, on September 29, proposed "to make of it a charter signed freely and on a footing of perfect equality by all the members of the League." Some states asked that the Covenant be coördinated with the Pact of Paris and with the Argentine Anti-War Pact; Peru asked also that the Hoover-Stimson doctrine be added to Article 10. It may be noted, in this connection, that very little attention is paid to the article which President Wilson regarded as the backbone of the Covenant. The Argentine government, in its reply, asked that the sanctions of Article 16 be put behind Article 10; and Lithuania raised the question of unanimity in connection therewith. Perhaps the general acceptance of the principle of collective security may be taken to imply that no debate was necessary as to this article.

Nor were there many suggestions as to the organization of the League; such as there were can hardly be regarded as constructive. The Argentine reply demanded that the Council be democratized; that of Colombia asked that permanent seats upon the Council be abolished and seats distributed on a regional or continental basis. Peru wished to introduce even into the Secretariat "the prin-

ciple of the proportional representation of continental groups." Finally, mention may be made of some proposals for improving the machinery for the pacific settlement of disputes, such as asking for advisory opinions from the Court by a majority vote, or permitting action to be taken under Article 15 by a two-thirds majority.

The Committee which had been agreed upon at the September Assembly held a meeting in December; and the great difficulties of the problem were reflected in the unwillingness of delegates to talk. It was agreed to divide the proposals into two groups, of more or less urgent matters. Universality was placed in the former group, since more proposals had been made concerning it than anything else; and under that heading were included not only the participation of all states, but also coöperation with non-members, coördination with the Kellogg Pact and with the Argentine Pact, and the question of regional organization. The matter of separating the Covenant from the Treaty of Versailles and the question of improving coöperation in economic and financial matters were also included in the more urgent group.¹⁵

The attention of members of the League obviously has been directed toward the machinery of that institution for preserving peace. No question is raised concerning it as machinery for international coöperation; in this field, there is no doubt of its value to all states. Even in the field of control of war, there is little discontent with the existing machinery; it is recognized that the difficulty lies rather in the failure of members to fulfill their duties. Explanations for the unwillingness of states to act in accordance with their obligations are sought in the absence of certain powerful states and the uncertainty as to their action; in the lack of machinery for peaceful change; in the unequal burden of sanctions upon the states applying them; in the lack of a central authority for determining the covenant-breaker; and elsewhere.

The dilemma of the League is a baffling one. The absence of the United States alone renders it ineffective in many important matters; with Germany and Japan out, and Italy as little helpful as if she were out, there is not only the question of effectiveness but the possibility of schism in the community of nations. In such a division, it is a little difficult to conceive of the United States taking a

¹⁵ New York *Times*, December 16, 1936.

stand against democratic governments, yet the logic of her refusal to join the League is the same as that of the dictatorial states. If there were a showdown, the absence of the United States would, at the least, make the balance of power more favorable to the dictatorial states.

It seems manifest, then, that the first task of the League must be to induce the Great Powers to join the League—particularly the United States; or, at any rate, enough of them so that there can no longer be a danger of schism. It is inconceivable, at present, that Germany or Japan would return to a League of Nations in which the sanctions of Article 16 were effective. Though Italy remains in the League, Mussolini has said that disarmament, collective security, and indivisible peace (i.e., universal solidarity against a disturber of the peace) must be abandoned.¹⁶ And as for the United States, the farthest step yet taken toward entry into the League is the Pope Resolution, still lying in a pigeonhole, which would accept membership on the understanding (among others) "that the decision of the United States in case the peace of nations is threatened shall rest with the government of the United States, acting according to the Constitution."¹⁷ Here, then, are four Great Powers unwilling to accept any obligation of joint action against a Covenant-breaking state; and there are members within the League who are almost as unwilling.

It is difficult to avoid the conclusion, for the time being, that the League must consent to a diminution of the authority which it now possesses. Such a weakening of authority could be accomplished in several stages. Through limitation of the application of sanctions to certain regions or fields of interest, it might be possible to induce states to participate in sanctions through self-interest, granted that they do not yet see that it is distinctly to their self-interest to act against war wherever it occurs. To the writer, the difficulties of a practical nature in the way of such regional organization seem insuperable.

To go further, members might be relieved of any obligation to participate in the use of sanctions. This, however, should be distinguished from the still further step of removing from the Covenant all authority for common coercive action against an offender—

¹⁶ *New York Times*, November 14, 1936.

¹⁷ Senate Joint Resolution 119, 74th Cong., 1st sess., May 7, 1935.

a step which should not be taken. It need not be taken, since states could combine for that purpose, and doubtless would combine for less worthy purposes, Covenant or no Covenant. At its weakest, the Covenant should furnish machinery for international coöperation, with the right, if not the duty, to take voluntary common action against an offender. It could be hoped, then, that states would occasionally, because of a realized need, engage in such voluntary action, and that they would thus learn the value and the need of further authority, as did the United States under the Articles of Confederation. And finally, if such concessions are to be made, this might better be done through agreement not to make use of the present provisions of the Covenant than through eliminating them by formal amendment.

But, whatever changes are made, the League should not follow the example hitherto set of humble submission to dissentients. Instead of concessions, it should set conditions. It should study how to make membership advantageous and non-membership disadvantageous. The non-member state which seeks to share in its advantages without accepting a share in its responsibilities should be excluded from such participation, where this can be done without loss to the community. There are many fields of economic and political activity in which non-members could be excluded from the benefits accruing to members. The failure of the League, it is submitted, is due—so far as there has been failure—to its neglect to “sell” itself as a body in which membership brings material advantages and non-membership brings material disadvantages.

AMERICAN GOVERNMENT AND POLITICS

Campaign Funds in the Presidential Election of 1936.¹ A study of the financing of the 1936 campaign is particularly interesting since it may show what, if any, effect the "New Deal" program has had upon political alignments. Eventually, any radical shift in the support of a political party must be reflected in the sources from which it draws its campaign funds.

In 1928, both major parties depended largely upon bankers and manufacturers for their contributions, although the Republicans received a larger proportion of their fund from manufacturers than did their rivals.² In 1932, although the proportion of the Democratic fund coming from manufacturers dropped appreciably,³ Roosevelt's promises of a New Deal had no apparent effect upon the support of the bankers, who contributed as heavily as in 1928.

What, if any, was the effect of the New Deal in action? If it has alienated the captains of finance and industry, the fact should appear in the make-up of the campaign fund. If the cleavage between the major parties is being drawn more definitely on economic lines—between the "haves" and the "have nots," if you like—there should be some evidence of it in the financial support of the parties. The effect of the New Deal upon the financial allegiance of various economic groups is the question which has been kept uppermost throughout this study.

The financing of the 1936 campaign, like that of many which preceded it, was the subject of an investigation by a senatorial committee. Authorized in April, 1936, and headed by Senator Loneragan of Connecticut, the committee reported in March, 1937.⁴ Unlike most of its predecessors, it held no public hearings, confining its activity to investigation of complaints registered with it, and assembling as complete information as possible about the various groups which were financially active. The committee quite obviously wished to avoid injecting itself into controversial issues where that could be avoided,⁵ and its report makes few specific

¹ This study was made possible by a grant-in-aid from the Social Science Research Council and a sabbatical leave from Wellesley College, both of which the writer is glad to have this opportunity to acknowledge.

² See the writer's *Money in Elections*, pp. 161-164.

³ From 16 to 10 per cent. See "Campaign Funds in a Depression Year," in this REVIEW, Vol. 27 (Oct., 1933), pp. 776-778.

⁴ United States, Congress, Senate, Special Committee to Investigate Campaign Expenditures of Presidential, Vice-Presidential, and Senatorial Candidates in 1936, *Investigation of Campaign Expenditures in 1936, Report*, March 4, 1937 (75th Cong., 1st sess., Sen. Rep. 151). Hereafter this will be cited as Loneragan Report.

⁵ Note, for example, its disposition of the charges that W.P.A. workers were coerced in Pennsylvania (*Report*, pp. 14-15), and that advertising in the *Book of the Democratic Convention* was in violation of the Corrupt Practices Act (*Report*, pp. 18-19).

recommendations. So far as any immediate legislative program is concerned, therefore, the usefulness of the investigation would seem to have been more limited than that of many of the earlier inquiries. However, the very existence of the committee probably prevented questionable practices in numerous instances, and the report assembles extremely valuable information that otherwise would not have been made a matter of permanent record. Especially important are the data concerning the contributions of organized labor to the campaign and the scattering of the contributions of certain individuals and families among many organizations.

Although the *Loneragan Report* has been extremely useful in connection with this study, in the main it is based upon the official records filed in the office of the clerk of the House, and a word about this material may not be amiss. The reports filed by the Democratic National Committee not only comply with the Corrupt Practices Act but are complete, legible, and in such form as to leave nothing to be desired by the investigator. The same cannot be said for Republican reports, however. All contributions, whatever the size of the gifts, are listed, and the reports are on very heavy paper, making them so bulky that they are difficult to use. Many pages are imperfect carbon copies, with numerous erasures, making it difficult, and sometimes impossible, to read the initials of the contributor and the amount of his contribution. The state of these reports is such that only approximate accuracy can be claimed for the data obtained from them. Finally it should be noted that in one respect recent reports did not fully comply with the Corrupt Practices Act. The report filed January, 1937, summarizing the financial status as of December 31, 1936, included no statement of loans or unpaid bills. In February, however, a supplementary report was filed which included this information. The report filed March 1, 1937, included a complete list of "bills payable," but no statement of loans outstanding. These are serious irregularities.

After struggling to compile comparable data from the reports of the two national committees, this writer can echo most heartily the statement of the Loneragan Committee that "there is no accounting practice in the United States today which presents so many complexities arising from lack of uniformity and completeness as that of political organizations," and can endorse its recommendation that a uniform system of accounting be prescribed by law.⁶

It will be remembered that both parties ended the campaign of 1932 in debt.⁷ During 1933, the Democratic deficit was reduced from \$800,000 to slightly over \$500,000. Some \$200,000 of the remaining obligations were loans contracted during the 1928 campaign or between 1928 and

⁶ *Report*, p. 136.

⁷ See "Campaign Funds in a Depression Year," *op. cit.*

1932. Over \$80,000 was still owed John J. Raskob, who had so largely financed the party in the dark days following the Smith defeat. The balance of the deficit was represented by unpaid bills, most of them for broadcasting during the 1932 campaign. This indebtedness was reduced but slightly in 1934 and 1935, and on January 1, 1936, the party faced the campaign with a debt of \$400,000. By March of that year, the Committee had achieved the difficult feat of paying all its debts, and on June first the treasury showed a balance of \$125,000. The party almost immediately went back into the "red," but for at least a brief period it was solvent—a happy state of affairs which had not existed since 1928. The books were balanced largely by receipts from two sources: \$200,000 which citizens of Philadelphia raised to bring the 1936 convention to that city and \$275,000 from Jackson Day dinners held in January. It should be noted that the large bills for radio time which had been outstanding at the end of the 1932 campaign were eventually paid in full.

There is a certain element of irony in the fact that in 1936 Mr. Raskob, whose financial support had made possible the rehabilitation of the party and laid the foundation for Roosevelt's victory in 1932, found himself in the position of having played financial godfather to one whose legislative program he now thoroughly disapproved.

From the financial reports, it is evident that a vigorous organization was maintained by the Democratic National Committee between campaigns. Operating expenses in 1934 totaled over \$300,000; and in 1935 over \$385,000 was spent.⁸ Apparently Mr. Farley operates upon the theory that the party should function continuously and that between-campaign activity is an important factor in winning elections. This may be one of the secrets of his success.

At the close of the 1932 campaign, the Republican deficit was \$200,000. During 1933 and 1934, all obligations were paid and by January 1, 1936, the treasury showed a comfortable surplus of \$260,000. These funds were raised, for the most part, in large contributions, only 2.3 per cent of the \$883,519 contributed coming from those who gave in sums less than \$100. Among the more generous contributors were the members of the Pew family of Pennsylvania, associated with the Sun Oil Company, \$118,500; the Mellons of Pittsburgh, \$45,000; the Rockefellers, \$25,000; the Balls of Muncie, Indiana, \$21,000; C. B. Goodspeed, Chicago, \$15,000; the du Ponts of Delaware, \$14,000; Silas H. Strawn, Chicago, \$10,000; and the Weirs of Pittsburgh, \$10,000. These eight families contributed 29 per cent of all that the Republican National Committee received during this period.

Although the Republicans faced the task of party rehabilitation after the defeat of 1932, and apparently did not lack funds, their organization

⁸ This is exclusive of loans repaid or contributions to other organizations.

was practically dormant between the campaigns. Their operating expenses in 1933 were only \$60,500, and in both 1934 and 1935 they spent substantially less than the Democrats.⁹ One lesson which they might draw from the 1936 débâcle is that more might profitably be spent between campaigns and less during the campaigns themselves.

TABLE I
EXPENDITURES OF NATIONAL COMMITTEES, JANUARY 1 TO DECEMBER 31, 1936

	<i>Democrats</i>	<i>Republicans</i>
Expended during campaign.....	\$4,956,348 ^a	\$7,980,710
Bills unpaid.....	238,393	912,262
Total.....	\$5,194,741	\$8,892,972
Contributed to state committees and other organizations ^b	\$ 663,257	\$2,058,630
Expended by National Committee.....	4,531,484	6,834,342
Total.....	\$5,194,741	\$8,892,972

^a Loans repaid totaling \$74,500 are not included. The figure represents as accurately as possible the running expenses of the campaign.

^b Funds returned to the states under agreements with state committees, as well as advances, are included in this item. It includes, also, funds contributed to congressional and senatorial campaign committees, and Democratic advances to the Roosevelt Agricultural Committee, the Good Neighbor League, and the Committee of One.

The expenditures of the two national committees, summarized in Table I, show that a record was established for presidential campaigns, the \$14,000,000 total exceeding by \$2,500,000 the expenditure in the expensive campaign of 1928, and being more than two and a half times that of 1932. The figures show, also, that the expenditures of the defeated Republicans exceeded those of the successful party by more than \$3,500,000, another instance in which the victory did not go to the party spending the most money. It was probably true, as the Republicans were quick to point out, that many expenditures of the national government, particularly those for relief and W.P.A. projects, aided the Democratic candidate directly or indirectly and that too much emphasis should not be laid upon the disparity between the expenditures of the two national committees. However, the experience of the Democrats in 1928, coupled with that of the Republicans in 1936, would seem to indicate that elections

⁹ The figures are as follows: 1934, Democrats, \$303,756, Republicans, \$216,676; 1935, Democrats, \$385,974, Republicans, \$159,977.

cannot be won by money alone. Democratic expenditures in 1936 were slightly less than in 1928, but more than in any previous campaign, and more than twice the expenditures of 1932. Relatively as well absolutely, the total expenditures exceeded those of previous campaigns, the cost per vote being \$.32.¹⁰ The cost per vote received by the Democrats was only \$.19—as low as in any previous campaign; but the Republican National Committee spent \$.52 for every vote that the party polled—more than in any previous campaign.¹¹

As usual, one of the largest single items in the budgets was for radio time, the Democrats spending \$582,327 for this purpose, and the Republicans \$757,737. This represented 12.9 per cent of the Democratic total, and 11.1 per cent of all that the Republicans spent. Absolutely, these figures represent a greater expenditure for this purpose than in any previous campaign; relatively, however, both parties spent less than in 1932.¹² The Republicans ended the campaign with a large part of their radio bills unpaid, only \$400,000 of the total being paid during the campaign.¹³ Another interesting item which it was possible to identify in the reports was the expenditure for postage. Postmaster-General Farley received \$206,000 from Chairman Farley of the Democratic National Committee for this purpose and \$264,000 from the Republicans. These sums represent 4.6 per cent and 3.9 per cent, respectively, of all that the national committees spent.

In the 1936 campaign, both major parties received important aid from auxiliary organizations or from groups which functioned entirely independently. The most important of these are listed in Table II. Their combined expenditures exceeded \$1,400,000, but more than \$300,000 of this came from the Democratic National Committee and has already been accounted for. Nevertheless, the \$1,000,000 remaining is sufficiently large to suggest that these organizations should be carefully regulated.

One other group, organized on a partisan basis and actively supporting President Roosevelt's reelection, spent a substantial amount during the

¹⁰ The cost per vote in 1932 was \$.13, and \$.19 to \$.20 in other recent campaigns. In 1936, the vote of Democrats and Republicans was 44,156,256, the combined expenditures \$14,087,713.

¹¹ These figures are based upon the total expenditures of the National Committee. For figures for previous campaigns, see the writer's *Money in Elections*, pp. 75-76.

¹² In 1932, the Democrats spent \$343,415, or more than 17 per cent of their fund, for this purpose; the Republicans spent \$551,972, or more than 20 per cent.

¹³ The figure for the total expenditure for broadcasting was furnished by C. B. Goodspeed, treasurer of the Committee. In the Committee's report of unpaid bills, the names of the firms to which the amounts were owed are given, but not the purposes for which the bills were contracted. It is not always possible to identify broadcasting expenditures by the names of the concerns, as much of the radio time in 1936 was bought from advertising agencies which handle other kinds of publicity as well.

campaign. The reports of the American Labor party show expenditures of \$218,118, none of which was advanced by the Democratic National Committee.

TABLE II
EXPENDITURES OF IMPORTANT NON-PARTY ORGANIZATIONS IN 1936¹⁴

<i>Favoring Democrats</i>	<i>Expenditures</i>	<i>Received from National Committee</i>
Committee of One.....	\$ 65,213	32,486
Good Neighbor League.....	168,677	34,750
Labor's Non-Partisan League.....	169,011	—
Progressive National Committee.....	54,460	—
Roosevelt Agricultural Committee.....	272,609	244,087
Progressive Republican Committee for Frank- lin D. Roosevelt.....	7,233	5,000
Young Democratic Clubs of America.....	22,973	10,750
Total.....	\$760,176	\$327,073
<i>Favoring Republicans</i>		
Independent Coalition of American Women...	\$107,783	—
Liberty League (National headquarters).....	518,123	—
Women's National Republican Club.....	27,973	—
Total.....	\$653,879	—

The receipts of the national committees of the major parties are summarized in Table III. Democratic receipts present certain difficulties because of the unusual and ingenious devices used. Regular "cash contributions" represented less than half of the total receipts. More than three-quarters of a million dollars was turned over to the Committee from the Roosevelt Nominators division, organized to induce a large number of individuals to become "nominators" by subscribing \$1.00 each to the campaign fund. This unit collected \$1,015,988, with an operating cost of only \$206,798, which speaks eloquently of its effectiveness. The \$809,190 balance was transferred to the National Committee. The Nominators division filed separate reports of its receipts and disbursements, but \$600,000 of the receipts were reported as collections from local groups,

¹⁴ These figures were compiled from the reports filed by these organizations in the office of the clerk of the House, and cover the calendar year 1936. They do not agree in all cases with those appearing in the *Loneragan Report*, p. 26, because the committee used the period June to December, 1936.

more than 5,000 of which functioned throughout the country.¹⁵ These represented a large number of individual contributions, most of them in sums of less than \$100, but it is impossible to state exactly how many.¹⁶ The reports show one contribution to this division of \$55,000 from H. L. Dougherty, of the Cities Service Company, New York; and six contributions of \$5,000 or over, including gifts from A. J. Drexel Biddle, Jr., and Joseph E. Davies, members of the diplomatic corps; R. S. Maestri, mayor of New Orleans; and Cornelius V. Whitney, of New York City. Eighty-two per cent of all that was given was in small individual contributions collected by local groups, and gifts from labor organizations. It is evident, therefore, that a very large number of persons participated in raising this fund.

TABLE III
RECEIPTS OF THE NATIONAL COMMITTEES, JANUARY 1 TO DECEMBER 31, 1936¹⁷

<i>Democrats</i>		<i>Republicans</i>	
Cash contributions	\$2,497,285	Cash contributions	\$7,698,770
Sale of stock contributed	5,237		
Cancellation of loans	23,000		
Advertising in the <i>Book</i>	385,525		
Sale of the <i>Book</i>	481,488		
Sale of boxes at convention	36,400		
Jackson Day dinners	315,104		
Roosevelt Nominator division	809,190		
Committee to obtain convention	200,000		
Loans	357,500	Loans	45,000
Miscellaneous Receipts	95,430	Miscellaneous receipts	17,269
Total	\$5,206,159	Total	\$7,761,039

A much-discussed source of revenue was the *Book of the Democratic Convention of 1936*, a volume containing pictures of Democratic leaders, statements of the activities of various departments of the national government by their heads, and a variety of miscellaneous information. Three

¹⁵ This information was furnished by Mr. J. Stephen Flynn, who was immediately in charge of this part of the campaign.

¹⁶ According to Mr. Flynn: "No compilation of the number of individual subscribers was ever made, and frankly it would be an impossible task to attempt to dig the information out of the files." (Letter dated March 15, 1937.)

¹⁷ All collections by the national committees, whether for themselves or as agents of other independent agencies, are included in this table. Republican receipts include collections made by the Finance Committee of Pennsylvania, Nassau County United Republican Finance Committee, and other similar groups, which were turned over to the National Committee in lump sums.

editions of this were published: a paper-bound edition before the convention which sold for \$2.50; a \$5.00 edition published after the convention and containing the President's acceptance speech; and a *de luxe* edition bound in leather and autographed by the President, which is still being sold at \$100 a copy.¹⁸ The volume contained a large number of paid advertisements, many of which were from corporations. It was this advertising that occasioned the complaint which the Republican National Committee filed with the Longeran Committee. It was charged that the numerous paid advertisements were really disguised contributions to the Democratic National Committee and that those from corporations were in violation of that provision of the Corrupt Practices Act which prohibits contributions from corporate organizations to political parties. The Democrats maintained that this was strictly a business venture, and that the rates charged were the usual commercial rates for advertising in publications of general circulation.¹⁹ The Democratic position is probably defensible so far as the advertising is concerned. Certainly not all of the concerns which bought space did so because of sympathy with the Democratic party. For example, Armour and Company, Briggs Manufacturing Company, Firestone Tire and Rubber Company, and S. H. Kress and Company advertised in the *Book*, although members of these firms were heavy contributors to the Republican National Committee.

More questionable than the sale of the advertising to corporations was the sale of the *Book* itself to them. More than half of the \$480,000 received from this source was from corporate organizations, many of which did not buy advertising space. Such well-known and varied concerns as Phillip Morris, the Italian Line, Remington-Rand, Elizabeth Arden, Dun and Bradstreet, Thomas Cook & Sons, F. W. Woolworth, and William Wrigley, Jr., were numbered among them. The most generous purchaser, however, was an individual. Margaret Biddle of Overbrook, Pennsylvania, purchased \$20,000 worth of copies.

Whatever the primary object of the *Book*, it is clear that it netted the National Committee a tidy sum. Over \$860,000 was received from advertising and sales. From the reports, it is impossible to determine with absolute accuracy the cost of the venture, but during the year 1936 the Committee spent \$483,000 for commissions on advertising and sales, printing, and other expenses incident to the publication.²⁰ Making a generous allowance for error and for bills outstanding, it seems fair to conclude that it netted the Committee at least \$250,000.

¹⁸ The writer is indebted to Mrs. Mary C. Salisbury, the very able comptroller of the Democratic National Committee, for this information.

¹⁹ *Longeran Report*, pp. 18-19.

²⁰ Both advertising and sales were on a percentage basis. Over \$180,000 was spent in commissions on sales alone.

During the 1936 campaign, the subscription dinner was found a relatively painless way of raising funds and a very lucrative one. Following the Jackson Day dinners, \$315,000 was turned over to the national treasury. The cost of these dinners ranged from \$100 a plate in the case of the most expensive one (in Washington) to \$5.00 a plate in sections where incomes and standards of living are more modest. The New York dinner may be used as an illustration of how effective a money-making device this may be. The total received from participants was \$41,000 and the total cost less than \$7,500, leaving \$33,500 for the campaign fund. Exactly how many persons contributed in this way is uncertain, but it is estimated that some 350,000 participated.²¹

The largest loans made to the Democratic National Committee during 1936 were by the Chase National Bank and the Manufacturers Trust (\$100,000 each), the United Mine Workers of America (\$50,000), and Walter A. Jones, Pittsburgh oil man (\$50,000). The United Mine Workers and Mr. Jones also made large outright contributions to the campaign.

Republican methods of raising funds were more conventional but very effective. Early in the campaign, the National Committee launched a scheme to popularize the giving of small amounts by the rank and file. In return for a \$1.00 contribution, a certificate was issued, bearing the pictures of Washington and Lincoln and stating that the person was "a contributor to and a participant in the work of bringing about a return to the fundamental principles of our government." The large number of contributors to the fund indicates that the plan must have been fairly effective. Except for a loan of \$45,000 from E. T. Weir, Pittsburgh steel manufacturer, the remainder of the Republican fund was made up of regular cash contributions.

The funds which rolled into the Republican campaign chest established a new record for that party, exceeding by more than a million dollars the \$6,610,000 raised in 1928. In the case of the Democrats, the total collected in regular contributions and by the Nominators division was less than the \$3,900,000 collected in 1928, but exceeded the contributions in any other campaign.

We have already seen that both parties made strenuous efforts to increase the number of small contributors, and there seems little doubt that more people helped finance this campaign than have ever before given to the national committees. It is difficult, however, to state exact figures. The Democrats place the total number of regular contributions at 55,000. Allowance for "repeaters," who gave at several different dates during the campaign, gives the figure 54,818. This, however, is but a small part of the story, since it does not include those contributing through the

²¹ This information was obtained from Mr. Hodgkins, immediately in charge of arranging these dinners, through Mrs. Salisbury.

Nominators division and Jackson Day dinners, as well as the numerous individuals whose dues helped make up the sums given by organized labor. If 350,000 actually participated in the Jackson Day dinners, as the Committee claims, the total would certainly exceed 600,000; in any case, it must have been in excess of 300,000.²² This is far more than the 90,500 who contributed to the Smith fund in 1928, and even exceeds the 170,000 contributors claimed by the Democratic National Committee in 1916.

Early in the Republican campaign, Henry P. Fletcher, then chairman of the National Committee, announced that his party aimed to raise "\$1,000,000 from 1,000,000 Americans." Much more than the \$1,000,000 was raised, but the ambitious goal of 1,000,000 contributors was not reached. At the close of the campaign, the Committee claimed 331,037 contributions.²³ A count of the names filed in the reports of the Committee revealed only 85,000 contributors, but this did not include those who gave through the Nassau County United Republican Finance Committee and other organizations which filed separate reports.²⁴ The exact figure for the number of Republican contributors remains as uncertain as the exact figure for the number of Democratic contributors. However, it certainly rivaled, if it did not exceed, the previous record of 143,749 in 1928.²⁵

The number of contributors to the campaign may be left veiled in uncertainty, for it is relatively unimportant. Much more significant are the contributions of different sizes, summarized in Table IV. It is evident that the Democrats drew much more heavily from the contributors of less than \$100 than did the Republicans, even if the gifts from labor organizations and the collections of the Nominators division are left out of consideration. If these are included, the total contributed in amounts less than \$100 rises from 18.5 per cent to the impressive figure of 34.0 per cent, and

²² If 5,000 communities participated in the Nominator collections and the average number of individuals contributing in each community was 20 (which would seem a very conservative estimate), the total would be 100,000. Allowing another 100,000 for Jackson Day dinners, 50,000 for organized labor, and adding the 54,000 regular contributors, gives 304,000.

²³ Letter from C. A. Goodspeed, treasurer, dated March 22, 1937.

²⁴ The writer's count checks closely with that of the Lonergan Committee, which included the period June 1 to December 31 only. The figures used here are for the calendar year 1936. It is possible that the difference between these figures and those of the Republican Committee is in part explained by the fact that where the same individual bought a number of participation certificates the writer treated it as a single contribution, whereas the Committee may have counted each of these separately.

²⁵ This is the figure obtained by counting the number of contributors listed in the 1928 reports. It checks very closely with the 143,452 which Mr. Goodspeed uses in a table published in the Republican leaflet "On the March," October 17, 1936. He gives the figure 22,287 for 1932, however, while the writer's count was 39,950.

TABLE IV
DISTRIBUTION BY SIZE OF CONTRIBUTIONS TO NATIONAL COMMITTEES, JANUARY 1 TO
DECEMBER 31, 1936²⁶

Group	Democrats			Republicans		
	Number of contrib- utors	Amount contributed by group	Per cent contrib- uted	Number of contrib- utors	Amount contributed by group	Per cent contrib- uted
\$50,000 and over..	1	\$ 52,500	2.1	2	\$ 105,000	1.4
25,000 to 49,999..	2	50,000	2.0	5	135,000	1.7
5,000 to 24,999..	76	551,882	21.9	275	1,623,605	21.1
1,000 to 4,999..	306	490,672	19.4	1,278	2,060,352	26.8
100 to 999..	2,295	454,443	18.0	8,066	1,839,498	23.9
Less than \$100....	51,893	468,927	18.5	75,000	1,039,213	13.5
Impossible to allo- cate:						
Labor.....	56	129,979	5.1			
Other.....	189	327,119	13.0	144	896,101	11.6
Total.....	54,818	\$2,525,522	100.0	84,770	\$7,698,769	100.0

exceeds that in any other campaign for which we have records.²⁷ On the other hand, the Republicans drew 50.7 per cent of their fund from those who contributed \$100 to \$5,000, while those in these middle brackets gave only 37.4 per cent of the Democratic fund. Interestingly enough, contributions of \$5,000 or more were about equally important in the two campaign funds (Democratic, 26.0 per cent; Republican, 24.2 per cent). In the case of the Democrats, this figure would be much lower if contributions to the Nominators had been included.

It has already been pointed out that in 1936 the Democrats relied to a greater extent upon small contributions than ever before. It is true also that, although the very large contributor played a very important rôle

²⁶ This table includes all cash contributions received during the calendar year. It should be noted that in the case of the Democrats it does *not* include contributions collected by the Roosevelt Nominators division. In preparing this table, a card index was made of all contributions of \$100 or more and the numerous cases where one individual gave several contributions at different dates traced. The numbers given, therefore, represent contributors and not contributions. Collections made by clubs or committees and turned over to the national committees in lump sums are listed as "Impossible to allocate." Many such collections were made by the Nassau County United Republican Finance Committee and similar organizations in the case of the Republicans. These collections were separately accounted for and appear in the reports of the National Committee in lump sums only.

²⁷ The percentages are as follows: 1912, 28.7; 1916, 27.9; 1920, 22.1; 1924, 18.0; 1928, 12.5; and 1932, 16.0.

in financing that campaign, it was a less important one than in any previous campaign for which the records are complete.²⁸

Although the Republicans drew a smaller proportion of their campaign fund in 1936 from contributors of less than \$100 than did the Democrats, this group played a more important rôle in the financing of the party than in most recent campaigns,²⁹ and dependence upon contributors of \$5,000 or more dropped appreciably.³⁰ Contributors of \$100 to \$5,000 gave more heavily than in 1916, 1928, and 1932, but less heavily than in 1920 and 1924.³¹

A study of the economic background of the larger contributors is particularly interesting for reasons already suggested. If the basis of support of the two parties is shifting, the fact should appear in these figures. Certainly there is food for thought in the data presented in Table V. The revolt of the bankers and brokers from the Democratic party is startling. Only 3.3 per cent of the contributions of \$1,000 or more came from this group, compared to 14.7 per cent in the case of the Republicans. This is the more significant when we take into consideration that in both 1928 and 1932 the Democrats drew as heavily as the Republicans from this source.³² Bankers contributed more money to the Republican fund in 1936 than in 1932, although relatively their rôle was less important.³³ Included in the list are representatives of such important New York banking and investment houses as J. P. Morgan and Co., the Corn Exchange Bank, Irving Trust Co., Bankers Trust, Guaranty Trust, Fifth Avenue Bank, National City Bank, Chase National Bank, First National Bank, Kuhn, Loeb and Co., Hallgarten and Co., Hornblower and Weeks, and Dillon, Read and Co. Eight members of J. P. Morgan and Co. contributed a total of \$31,000; three representatives of the Irving Trust, \$23,000; three members of Kuhn, Loeb and Co., \$20,000; and the contributions of nine members of Hornblower and Weeks totaled \$14,000. Wall Street usually gives heavily to the Republican party, but in 1936 it gave even more generously than usual and with fewer dissenting voices than in the past. In this campaign, too, it received liberal support from representatives of banking houses scattered throughout the country, including the Harris Trust and Savings, Chicago; the Union Trust Co., Cleveland;

²⁸ The percentages for contributions of \$5,000 or more are as follows: 1912, 33.3; 1916, 34.4; 1920, 26.2; 1924, 45.2; 1928, 52.7; 1932, 43.7.

²⁹ The percentages are as follows: 1916, 15.1; 1920, 15.3; 1924, 11.1; 1928, 8.2; 1932, 9.1.

³⁰ The percentages are: 1912, 44.8; 1916, 41.4; 1920, 0.1; 1928, 45.8; 1932, 40.1.

³¹ The percentages are: 1916, 39.9; 1920, 80.2; 1924, 58.7; 1928, 44.5; 1932, 48.2; 1936, 50.7.

³² The percentages are as follows: 1928, Democrats, 25.3 and Republicans 28.2; 1932, Democrats, 24.2 and Republicans 20.5.

³³ In 1932, the contributions of \$1,000 or more to the Republican National Committee totaled \$335,605.

Crocker National Bank, San Francisco; Boatmen's National Bank, St. Louis; First National Bank, Oklahoma; Toledo Trust Co., Toledo; First National Bank, Wichita, Kansas; Mellon National Bank, Pittsburgh; and Drexel and Company, Philadelphia. The heads of some of these

TABLE V
DISTRIBUTION BY ECONOMIC INTEREST OF CONTRIBUTORS OF \$1,000 OR MORE TO
NATIONAL COMMITTEES, 1936^a

Classification	Democrats		Republicans	
	Amount	Per cent	Amount	Per cent
Bankers and brokers.....	\$ 42,000	3.3	\$ 578,910	14.7
Manufacturers.....	173,600	13.6	1,162,934	29.6
<i>Iron and steel.....</i>	<i>15,500</i>	<i>1.2</i>	<i>346,141</i>	<i>8.8</i>
<i>Chemicals and explosives.....</i>	<i>1,000</i>	<i>.1</i>	<i>160,613</i>	<i>4.1</i>
<i>Tobacco.....</i>	<i>33,000</i>	<i>2.6</i>	<i>2,000</i>	<i>•</i>
<i>Other.....</i>	<i>124,100</i>	<i>9.7</i>	<i>654,180</i>	<i>16.7</i>
Brewers and distillers.....	73,050	5.7	6,850	.2
Oil (including refining and oil land development).....	88,250	6.9	86,650	2.2
Mining (coal, copper, zinc).....	—	—	119,942	3.1
Railroads, steamship lines, and airways.....	9,500	.7	94,933	2.4
Gas and electricity.....	23,500	1.8	43,600	1.1
Merchants: wholesale and retail.....	29,000	2.3	72,350	1.9
Lumber, cement, building materials, and contracting.....	15,000	1.2	44,600	1.1
Real estate.....	20,000	1.6	59,200	1.5
Newspapers, broadcasting, and advertising.....	33,250	2.6	128,925	3.3
Motion picture producers, theatre owners.....	30,250	2.4	1,000	•
Professional people.....	161,507	12.7	170,724	4.4
Officeholders.....	160,902	12.6	—	—
Organized labor.....	129,979	10.2	—	—
Other classifications.....	31,000	2.4	200,700	5.1
Unidentified.....	254,245	20.0	1,152,840	29.4
Total.....	\$1,275,033	100.0	\$3,923,958	100.0

• Less than one-tenth of one per cent.

^a In identifying the interests of contributors, *Who's Who in America*, *Poor's Register of Directors of Corporations*, and the directories and telephone books of various cities were used. Unfortunately, both the Chicago and New York directories were sadly out-of-date. Under "Organized labor" are included all contributions from this source. Speaking strictly, these are not "Contributions of \$1,000 or more," since each contribution represented the gifts of many individuals.

houses have been consistent supporters of the Republican party, but many of the names are new.

The rôle of the manufacturers in the campaign is equally interesting. Although their support is less one-sided, the \$1,162,934 contributed by them to the Republican party shows clearly that Landon was their choice. Manufacturers contributed 29.6 per cent of all contributions of \$1,000 or more, a larger percentage than in 1932.³⁵ The Democrats received much less from this source than the Republicans, but slightly more than they received in 1932.³⁶

An examination of the types of manufacturing represented brings out further interesting differences. Iron and steel are represented heavily among the Republican contributors, members of Jones and Laughlin, Republic Steel, Great Lakes, Edgewater, Bethlehem, Allegheny, United States, Carnegie-Illinois, Weirton, the American Rolling Mill Company, and Laclede contributing.³⁷ No one of these companies made a conspicuously large gift; it is the aggregate that is important. Important, too, is the geographical distribution. Cleveland, Chicago, and Detroit are as heavily represented as Pittsburgh. The American Locomotive Co., American Car and Foundry Co., and the International Harvester Co. are the only important concerns primarily interested in iron and steel manufacturing found among the Democratic contributors.

Manufacturers of chemicals and explosives are also heavily represented among the Republican contributors, but gave little to the Democrats. Members of the du Pont family and others associated with this firm are most conspicuous, giving some \$100,000 to the National Committee.³⁸ Both the American Cyanamid Company and the Monsanto Chemical Company are represented also.

In the case of tobacco, the tables are exactly reversed. Cigarette manufacturers made substantial contributions to the Democratic National Committee, but their gifts to the Republicans were inconsequential. Most of the Democratic contributions came from representatives of the R. J. Reynolds Tobacco Co., of Winston-Salem, North Carolina, which raises the question whether they were not motivated as much by the location of the firm as by the character of the business.

Other manufacturers represented in the Republican group include many concerns making electrical equipment, automobiles, food products,

³⁵ Contributions from manufacturers made up 26.3 per cent of all contributions of \$1,000 or more in that year.

³⁶ In 1932, they received \$130,950 from this group, representing 10.5 per cent of all contributions of \$1,000 or more.

³⁷ Members of Weirton Steel contributed only \$6,500 during the campaign. It should be remembered, however, that the Weirs had contributed \$10,000 in 1935 and that in December, 1936, E. T. Weir lent the National Committee \$45,000.

³⁸ The total du Pont contributions to the campaign were much larger than this. See Table VII below.

soap, glass, and paper products. Such familiar articles as Westinghouse irons, Packard and Chevrolet cars, Goodrich and Firestone tires, Armour and Wilson hams, Fleischmann's yeast, Quaker oats, Morton's salt, Ivory and Palmolive soap, Heinz pickles, Pepsodent tooth paste, Wrigley's chewing gum, Carnation and Borden's milk, Del Monte peaches, Schilling and Calumet baking powder, Libbey glass, Victrolas, Atwater-Kent radios, Sherwin-Williams paint, Burroughs adding machines, Elgin watches, Electrolux refrigerators, Maytag washing machines, Congoleum, Durkee mayonnaise, Sheaffer pens, Kleenex—one can go down the list of articles used in any American home and find most of them represented. Lastly, the Aluminum Company of America, a Mellon concern, should not be overlooked in the list of manufacturers contributing to the Republican party. The Democratic list is much less imposing and suggests that it represents "little" rather than "big" business. Of the products enumerated above only two—Ivory soap and Libbey glass—are represented. The only other well-known concerns included are Thomas A. Edison and Co., Cannon Mills, Zenith Radio Co., Coca-Cola Co., and the Stinson Aircraft Corporation. The remainder includes a miscellaneous list of makers of hosiery and other wearing apparel (many of them Southern), hookless fasteners, fur, confectionery, shade cloth, and "remembrance advertising" (calendars, playing cards, and other novelties).

The figures leave no doubt as to which party had the support of the brewers and distillers. Liquor paid its debt of gratitude to the Democratic party by giving 5.7 per cent of the large contributions to the 1936 campaign fund. This group is also heavily represented in the small contributors, and numbered among the labor organizations were a conspicuous number of brewing unions.

Oil producers and refiners contributed more heavily to the Democratic than to the Republican party. The largest of the contributions was from Walter A. Jones of Pittsburgh, interested in oil land development. In addition to an outright contribution of \$52,500, Mr. Jones made the National Committee a loan of \$50,000 and contributed \$50,000 to the state committee. Most of the other contributions in this group came from Texas oil men, with a sprinkling from Oklahoma, Utah, and California.³⁹ The Sun Oil Company of Pennsylvania was the heaviest Republican contributor, various members of the Pew family giving \$30,000. Over \$10,000 was contributed by representatives of the Gulf Oil Company of Pittsburgh, a Mellon concern, and John D. Rockefeller, president of Standard Oil until his retirement, gave \$5,000.⁴⁰

³⁹ The largest of the Texas contributions was from Freeman W. Burford, president of the East Texas Refining Co., \$12,500; the total from Texas oil men was \$24,750.

⁴⁰ It was difficult to classify the members of the Rockefeller family. Although most of their money was made in Standard Oil, neither John D. nor John D., Jr.,

Mining interests played no part in the financing of the Democratic party, but coal and copper companies contributed slightly more than three per cent of the Republican fund. Public utilities were relatively unimportant in the financing of either party. Curiously enough, gas and electric power and light companies contributed more heavily to the Democratic than to the Republican party. It is difficult to explain why the hostility of hydro-electric power to the T.V.A. did not result in substantial contributions to the Republicans from this group, and why the contributions from public utilities as a whole should have been relatively less important than in 1932. It is possible, of course, that the hydro-electric power concerns deemed it more politic to let the investors do the contributing.

Merchants, wholesale and retail, divided their financial support fairly equally between the two parties, but there is a difference: chain stores and mail order houses gave the bulk of this part of the Republican fund, while none of these supported the Democrats. Numbered among the Republican contributors were representatives of the W. T. Grant chain, J. C. Penney Co., both S. S. Kresge and S. H. Kress of "five and ten" fame, the Walgreen drug stores, and Safeway Stores, as well as Montgomery Ward and Sears Roebuck. The largest gifts to the Democrats came from Edward A. Filene, B. F. Gimbel, and various members of the Straus family actively associated with R. H. Macy and Co. of New York.

Something of the opposition of the press to President Roosevelt appears in the larger percentage of Republican campaign funds which came from newspapers and other publicity agents. The largest and most interesting of these was from William Randolph Hearst, who gave \$50,000. Mrs. Robert R. McCormick, wife of the publisher of the *Chicago Tribune*, contributed \$10,000 to the Republican National Committee, and Mr. and Mrs. Ogden Reid, of the New York *Herald-Tribune*, gave \$2,000. All three of these papers were bitter in their attacks upon the Democratic administration during the campaign.

Landon may have been the choice of the press, but Roosevelt was clearly the choice of motion picture producers and theatre owners, if campaign contributions are an index. The two Schencks, Joseph and Nicholas, were the most generous contributors in this group.

The professional group, composed for the most part of lawyers, with a sprinkling of physicians, accountants, and authors, is usually more strongly Democratic than Republican, and this was true in 1936; 12.7

is now associated with the management of that concern nor, indeed, is a director of any corporation except philanthropic foundations. John D. was classified with the oil group since he was identified with oil during his active business career; John D., Jr., however, was included under "Other classifications."

per cent of the Democratic contributions came from this source, compared to 4.4 per cent in the case of the Republicans.⁴¹

There remain for consideration two groups which played no part in the financing of the Republican campaign, but which were very important to the Democrats—office-holders and organized labor. In 1936, Democratic office-holders gave almost as much as the manufacturers. This includes cash contributions only; many others contributed indirectly through attending subscription dinners and buying copies of the *Book*, or gave to the Nominators division. Some aided the party in several of these ways. Take the case of Attorney-General Homer S. Cummings, for example. He contributed \$1,150 to the campaign fund, attended a Jackson dinner, and gave \$100 to the Nominators division. It is safe to say that a very large proportion of those attending the Washington subscription dinners were office-holders and that they were gilt-edged "prospects" to book salesmen. To what extent these represent contributions freely made, and to what extent there is an element of compulsion about them,

TABLE VI

CONTRIBUTIONS OF ORGANIZED LABOR TO THE DEMOCRATIC NATIONAL COMMITTEE AND OTHER GROUPS IN THE 1936 CAMPAIGN⁴²

<i>Name of Organization</i>	<i>Contributions</i>	
Democratic National Committee		
Cash contributions	\$129,979	
Advertising in the <i>Book</i>	7,500	
Sales of the <i>Book</i>	4,910	
Roosevelt Nominators division	62,211	
Reimbursement for expenses of sound truck	361 ^a	
Loans	50,000	\$254,961
Labor's Non-Partisan League		
National organizations	195,393	
State divisions	32,000	227,393
Progressive National Committee		40,300
American Labor party		180,558
Miscellaneous contributions		67,006 ^a
Total		\$770,218

^a Figures taken from the *Loneragan Report*, pp. 127-128.

⁴¹ In classifying contributors, every effort was made to exclude from this group those members of the legal profession who were actively identified with corporations and to confine it to those who were engaged in general legal practice.

⁴² Figures, except where otherwise indicated, are taken from the records and cover the calendar year 1936. They differ but slightly from those in the *Loneragan Report*, pp. 127-128.

is difficult to say. Some refuse "invitations" to Jackson Day dinners with impunity; some grumble but attend; some go with enthusiasm. In one instance, a department head barred *Book* salesmen from a government office because he feared employees might feel compelled to buy.

These relatively painless ways of raising funds from office-holders and others have been extremely effective in the past. However, the burden of Jackson Day dinners, Victory dinners, and convention books falls upon the same people and there is, presumably, a limit to what the traffic will bear, even in the case of office-holders. One wonders if that limit has not been reached and if new methods will not have to be devised to take their place.

One of the most important developments of the 1936 campaign was the emergence of labor as a factor in the financing of the Democratic party and other organizations which supported Roosevelt. Contributions from various labor groups to the Democratic National Committee (see Table VI) totaled over \$200,000, half of which was given by the United Mine Workers of America, a John L. Lewis organization. In addition, this group made the Committee a loan of \$50,000. Various other groups supporting Roosevelt received more than \$500,000, making the impressive total of \$770,218 from this source. Labor's Non-Partisan League and the American Labor party received the largest amounts. The latter organization achieved the feat of raising \$41,750 from 83,500 dues-paying members, something very unusual in campaign finance in this country. Most of the funds of Labor's Non-Partisan League were advanced by the United Mine Workers. In fact, the total which this organization invested in the campaign was \$469,870, more than half of all that labor gave to Roosevelt's support.⁴³ The financial aid received by the Democratic party from organized labor is significant in itself; even more significant is the fact that so much of this came from an organization which has taken the leadership in the C.I.O. movement for industrial unionism.

The list of large individual contributors (Table VII) throws some interesting side-lights upon the financing of the campaign. Four of the persons who contributed \$10,000 to the Democratic Committee are members of the diplomatic corps; a fifth is the wife of a former member.⁴⁴ One wonders what the party would have done without the aid of the diplomats.

One scans the Democratic list in vain for the names of many of those who were generous contributors in 1932. Less than one-third of those who contributed \$1,000 or more four years before aided the party in 1936.

⁴³ A complete list of the labor organizations and their contributions appears in the *Loneragan Report*, pp. 128-133.

⁴⁴ Robert W. Bingham, Joseph E. Davies, Bert Fish, Mrs. H. H. Sevier, and Lawrence Steinhardt. Many others contributed less than \$10,000.

TABLE VII
LARGE INDIVIDUAL AND FAMILY CONTRIBUTIONS TO THE 1936 CAMPAIGN⁴⁵

Name and address of individual	Contributions			
	National Committee		Other organ- izations	Total
	1933-35	1936		
DEMOCRATS				
Biddle, Margaret D., Overbrook, Pa.	\$	\$25,000		\$25,000
Fingham, Robt., W., diplomat.		15,000		15,000
Eok, Curtis, Philadelphia, Pa.		25,000		25,000
Buck, Raymond E., Texas		13,145		13,145
Burford, F. W., Texas.		12,500		12,500
Clayton, Mrs. W. L., Lookout Mt., Tenn.	7,000	10,000		17,000
Cromwell, Doris Duke, Somerville, N. J..			50,000	50,000
Davies, Jos. E., diplomat.	8,500	10,000	1,500	20,000
Dougherty, H. L., New York, N. Y.		55,000		55,000
Fish, Bert, diplomat.	2,000	13,000		15,000
Gerard, James W., New York, N. Y.	7,500	17,500	10,500	35,500
Jones, Walter A., Pittsburgh, Pa.		52,500	50,000	102,500
Lewis, Frank J., Chicago, Ill.		10,000		10,000
Maestri, R. S., mayor of New Orleans. . .		16,000		16,000
Manning, Lucius B., Chicago, Ill.		25,000		25,000
Morrison, Mr. and Mrs. Cameron, N. C..		10,000	2,000	12,000
Morrison, Ralph W., Texas.		20,000 ^a		20,000
Mullen, A. F., Omaha, Nebr.	3,200	10,000		13,200
Odlum, Floyd B., New York, N. Y.		10,000		10,000
Patterson, Jos M., New York, N. Y.	5,000	20,000	3,100	28,100
Rosensteil, Lewis, New York, N. Y.	5,000	17,500		22,500
Schenck, Jos. M., New York, N. Y.		10,000		10,000
Schenck, Nicholas M., New York, N. Y..		10,000		10,000

⁴⁵ This table includes all contributions of \$10,000 or more to either national committee in 1936 and all contributors whose total contributions to the campaign amounted to \$50,000 or more. A few others have been included because of their close relationship to large contributors. Democratic gifts to the Nominators division and the *Book*, as well as regular cash contributions, are included. In preparing this list, the index of contributors used in Table IV was checked against the figures given in the Loneran *Report*. In the case of the Republicans, there were a number of differences, some because the Loneran figures for contributions to the national party include gifts made through the Nassau County United Republican Finance Committee, the Finance Committee of Pennsylvania, and other similar groups the funds of which were not allocated in Table IV. Other differences were due, no doubt, to the condition of the Republican reports. Cases of disagreement were checked and the figures appearing here under contributions to the National Committee is the one which the investigator believed most likely to be correct. Figures in this column taken from the Loneran *Report* are followed by the letter L. The entire list of contributions from other organizations is from the Loneran *Report*, pp. 42-126.

TABLE VII—*Continued*

Name and address of individual	Contributions			
	National Committee		Other organizations	Total
	1933-35	1936		

DEMOCRATS (Continued)				
Schwartzhaupt, Emil, New York, N. Y.	3,500	10,000	1,000	14,500
Sevier, Clara D. (Mrs. H. H.), Texas		10,000		10,000
Steinhardt, Lawrence, diplomat	1,000	10,000		11,000
Straus, Percy S., New York, N. Y.	2,500	15,000		17,500
Turtletaub, John J., New York, N. Y.		10,000		10,000
Whitney, Cornelius V., New York, N. Y.		10,000		10,000

REPUBLICANS				
Baker, Geo. F., New York, N. Y.	\$ 4,117	\$ 5,000	\$ 50,250	\$ 59,367
Bingham, Wm. III, Bethel, Me.		10,000		10,000
Burnett, Mrs. Cora T., Alpine, N. J.		10,000		10,000
Carpenter, R. R. M., Montchain, Dela.	2,500	11,000L	10,000	23,500
Chapman, J. A., Tulsa, Okla.		10,000		10,000
Copley, J. C., Aurora, Ill.		5,000	98,011	103,011
Cromwell, W. Nelson, New York, N. Y.		10,500	15,000	25,500
Dillman, Mrs. Anna D., Detroit, Mich.		14,000		14,000
Draper, Col. W. P., Boston, Mass.	10,000	10,000		20,000
Dunn, Harris A., New York, N. Y.		20,000		20,000
du Pont, A. Felix, Wilmington, Dela.		9,500L	25,000	34,500
du Pont, Archibald L., Wilmington, Dela.		1,000		1,000
du Pont, Mrs. Coleman, Wilmington, Dela.		4,250L	1,000	5,250
du Pont, Eugene, Wilmington, Dela.		2,000L	1,600	3,600
du Pont, Henry B., Wilmington, Dela.	1,000	5,000	20,000	26,000
du Pont, Irénéé, Wilmington, Dela.	8,000	7,700L	105,830	121,530
du Pont, Lamot, Wilmington, Dela.	5,000	10,000	175,500	190,500
du Pont, Pierre S., Wilmington, Dela.		5,000	106,990	111,990
du Pont, Pierre S. III, Wilmington, Dela.		3,000		3,000
du Pont, S. Halleck, Wilmington, Dela.		5,000	500	5,500
du Pont, Wm., Jr., Wilmington, Dela.		5,000	16,000	21,000
Copeland, Lamot du Pont, Wilmington, Dela.		5,000	2,000	7,000
Elkins, Wm. M., Whitmarsh, Pa.		10,000L	10	10,010
Firestone, H. S., Canton, Ohio.		15,000		15,000
Fleischmann, Max C., Santa Barbara, California.		25,000	51,156	76,156
Forstmann, Julius, New York, N. Y.		10,000	1,000	11,000
Getz, Geo. F., Chicago, Ill.		10,500	4,500	15,000
Getz, Geo. F., Jr., Chicago, Ill.	10,333	10,000	3,000	23,333
Glass, Alex, Cleveland, Ohio.		16,000		16,000

TABLE VII—Continued

Name and address of individual	Contributions			
	National Committee		Other organ- izations	Total
	1933-35	1936		
REPUBLICANS (Continued)				
Goelet, Robt. W., New York, N. Y.....	1,000	10,000		11,000
Goodspeed, C. B., Chicago, Ill.....	15,000	35,000	13,925	63,925
Guggenheim, Col. M. Robt., Washington, D. C.....		25,000		25,000
Harkness, Edw. S., New York, N. Y....		10,000	5,000	15,000
Harris, Albert W., Chicago, Ill.....	2,500	10,000		12,500
Easkell, Harry G., Wilmington, Dela....		12,000L	18,750	30,750
Hearst, Wm. R., San Simeon, Calif.....		50,000		50,000
Jelke, F. Frazier, New York, N. Y.....		25,000		25,000
Johnson, Eldridge R., Camden, N. Y....		10,000	500	10,500
Julliard, Frederick A., New York, N. Y..		11,000		11,000
Kent, A. Atwater, Philadelphia, Pa.....		10,000L		10,000
Lincoln, James F., Cleveland, Ohio.....		13,000		13,000
McFadden, B., Englewood, N. J.....		5,000		5,000
McCormick, Mrs. Robt. R., Chicago....		10,000		10,000
Mellon, Andrew W., Pittsburgh, Pa.....	30,000	10,000L	30,000	70,000
Mellon, Paul, Pittsburgh, Pa.....		5,000		5,000
Mellon, Mrs. Paul, Pittsburgh, Pa.....		5,000		5,000
Mellon, Mrs. Wm. L.....		3,500		3,500
Mellon, Richard K., Pittsburgh, Pa.....	5,000	5,000	15,000	25,000
Mellon, Mrs. Jennie K., Pittsburgh, Pa..	5,000	5,000		10,000
Scaife, A. M., Pittsburgh, Pa.....		2,000	275	2,275
Scaife, Mrs. A. M. (daughter of Andrew W. Mellon), Pittsburgh, Pa.....	5,000	5,000		10,000
Mills, Ogden, New York, N. Y.....		10,000L	15,000	25,000
Morgan, J. P., New York, N. Y.....		10,000L	45,000	55,000
Pew, Arthur E., Jr., Bryn Mawr, Pa.....		5,000	10,775	15,775
Pew, Miss Ethel, Bryn Mawr, Pa.....	27,500	5,000	76,625	109,125
Pew, J. Howard, Ardmore, Pa.....	25,500	5,000	95,138	125,638
Pew, J. H., Jr., Ardmore, Pa.....	25,000	5,000	95,314	125,314
Pew, Mary C., Bryn Mawr, Pa.....	13,000			13,000
Myrin, Mrs. Mabel Pew, Bryn Mawr, Pa..	27,500	5,000	77,625	110,125
Pew, Walter C., Gladwyne, Pa.....		5,000	10,125	15,125
Phipps, L. C., Denver, Colo.....	2,500	11,000L	4,000	17,500
Pitcairn, H. F., Pittsburgh, Pa.....		11,250L	4,675	15,925
Pitcairn, Theo., Pittsburgh, Pa.....		13,250L	1,000	14,250
Pruitt, R. S., Chicago, Ill.....		20,000	4,450	24,450
Reed, Col. L. R., Southampton, L. I....		10,000L		10,000
Robinson, Miss Louise, New York, N. Y.		10,350	200	10,550
Rockefeller, John D., New York, N. Y...	5,000	5,000		10,000

TABLE VII—*Continued*

Name and address of individual	Contributions			
	National Committee		Other organ- izations	Total
	1933-35	1936		
REPUBLICANS (Continued)				
Rockefeller, John D., Jr., New York, N. Y.....	20,000	55,000	15,000	90,000
Rockefeller, Mrs. John D., Jr., New York, N. Y.....		5,000		5,000
Rockefeller, John D., III, New York, N. Y.....		5,000	15,000	20,000
Rockefeller, Lawrence S., New York, N. Y.....		5,000		5,000
Roebing, John A., Bernardsville, N. J....		25,000		25,000
Simonds, Mrs. Ellen G., Fitchburg, Mass.		10,000	5,000	15,000
Sloan, Alfred P., Jr., New York, N. Y....		5,000	46,600	51,600
Sloan, Mrs. Alfred P., Jr., New York, N. Y.....		5,000	27,500	32,500
Timken, H. H., Canton, Ohio.....	1,000	16,178		17,178
Twombly, Mrs. H. McK., New York, N. Y.....		11,000		11,000
Warburg, Felix M., New York, N. Y....		10,000		10,000
Weir, E. T., Pittsburgh, Pa.....	5,000	300	47,500	52,800
Whitney, J. H., New York, N. Y.....	5,000	5,000	47,625	57,625
Worcester, C. H., Chicago, Ill.....		10,000		10,000
Young, Leonard A., Detroit, Mich.....		15,000		15,000

* This contribution was made in the form of a cancellation of a 1932 loan.

Still more significant is the appearance of the names of a number of them on the Republican list; Pierre S. du Pont, Edward S. Harkness, William Randolph Hearst, William K. Vanderbilt, and Gertrude Vanderbilt Whitney are the best known of these. Each of them contributed \$5,000 or more to the Republican National Committee in 1936. In a number of other cases, persons contributing to the Democratic deficit in 1933-35 had changed their financial allegiance to the Republican party by 1936. Among these were S. M. Archer, president of the Food Products Co., Minnesota; Irénée du Pont, already identified; Walter E. Frew, Corn Exchange Bank, New York; and B. E. Hutchinson, vice-president and chairman of the finance committee of Chrysler Co., Detroit. Frew and Hutchinson contributed to the Democratic party as late as 1935. These losses are not balanced by recruits from the Republican ranks; Lucius B. Manning, Chicago manufacturer of airplanes and autos, and Boris Said, New York, whose occupation remains a mystery, being the only two

persons who contributed to the Republicans in 1932 and to the Democrats in 1936.

The size of some of the individual and family contributions to the Republican party and ancillary organizations is staggering (see Table VII). Beside the gifts of the du Ponts and the Pews, the corporate contributions of 1904 pale into insignificance. They rival, if they do not exceed, the large contributions to the Smith campaign in 1928. These two families contributed more than \$1,000,000 to a single Republican campaign—certainly not a healthy situation.

Table VII also reveals how popular was the practice of splitting contributions among a large number of organizations, particularly with the Republicans, and emphasizes the need for summaries of the financing of all national campaigns.⁴⁶ We need some machinery which will bring together from scattered reports the sort of significant information compiled for this campaign by the Lonergan Committee. Without it, the picture of the financing of any presidential campaign will be incomplete.

Most campaigns reveal a few persons who contribute to both parties, and 1936 is no exception to the rule. August A. Busch, St. Louis brewer;

TABLE VIII
GEOGRAPHICAL DISTRIBUTION OF CONTRIBUTIONS OF \$100 OR MORE TO THE
DEMOCRATIC NATIONAL COMMITTEE, 1936⁴⁷

<i>Section</i>	<i>Amount contributed</i>	<i>Per cent contributed</i>
Northeast (Conn., Del., Me., Mass., N. J., N. Y., N. H., Pa., R. I., Vt.).....	\$ 847,400	28.8
Center (Ill., Ind., Ia., Mich., Minn., Ohio, Wis.)...	427,870	14.6
South (Ala., Ark., Fla., Ga., Ky., La., Md., Miss., Mo., N. C., Okla., S. C., Tenn., Tex., Va., W. Va.)...	1,111,924	37.8
West (Ariz., Calif., Colo., Ida., Kans., Mont., Neb., Nev., N. M., N. D., Ore., S. D., Utah, Wash., Wyo.).....	188,410	6.4
District of Columbia.....	146,027	4.9
Other.....	58,297	2.0
Impossible to allocate.....	162,024*	5.5
Total.....	\$2,941,952	100.0

* Most of this was from labor organizations with headquarters in Washington, D. C.

⁴⁶ The Lonergan *Report* lists in detail the organizations to which these contributions were made, bringing out even more clearly the extent to which the practice of "splitting" contributions was resorted to.

⁴⁷ This includes not only regular cash contributions but all collections by the Nominators as well.

R. R. Deupree, president of Procter and Gamble; Frank Phillips, Oklahoma oil man and banker; and Thomas E. Wilson, Chicago packer, contributed to both national committees. All of the contributions of Mr. Busch and Mr. Wilson were made before the election; Mr. Deupree and Mr. Phillips, interestingly enough, contributed to the Republicans during the campaign but to the Democrats after the votes were counted.

No study of the geographical distribution of Republican contributors has been made for this campaign. But the distribution of Democratic contributors of \$100 or more, summarized in Table VIII, is interesting in itself. More than 37.0 per cent of all contributions of \$100 came from the South. Texas alone contributed \$210,600, more than all the Western states combined. Its total was exceeded only by New York (\$595,741) and Illinois (\$232,316). Arkansas contributed the surprising amount of \$156,812, mostly in small sums. The \$103,945 given by Tennessee no doubt reflects its enthusiasm for the T.V.A. These sums compare favorably with the \$162,216 contributed by Pennsylvania. The occasion for the \$146,027 which the District of Columbia contributed is obvious. Not all of this was given by office-holders, of course, but on the other hand a good many persons in governmental service live in Maryland and Virginia and their contributions are not credited to the District; while some diplomats give foreign addresses. California contributed more than any other state in the Western group (\$52,564). Interestingly enough, Kansas comes next with \$42,980. The numerous small contributions made in the Southern states bear testimony to the effectiveness of Mr. Farley's organization there. Certainly no Democratic Committee in recent years has mustered such impressive financial support in this quarter. The South in the past has given much more liberally of its votes than of its dollars.

Both parties ended the campaign as they began it—in debt—but the present financial outlook is much brighter for the Democrats than for their defeated rivals. On December 31, 1936, the financial status of the Democrats was as follows:

Unpaid obligations	
Borrowed money.....	\$381,877
Unpaid bills.....	238,393
	<hr/>
Total.....	\$620,270
Cash on hand.....	175,020
	<hr/>
Net deficit.....	\$445,250

During the next two months, the unpaid bills were reduced substantially, but on March 1, 1937, the deficit still exceeded \$440,000. The Victory dinners of March probably cleared this, but the official reports for this period will not be available until June, 1937. The largest out-

standing obligations were debts of \$60,000 each to the Chase National Bank and the Manufacturers Trust of New York, \$50,000 to Walter A. Jones of Pittsburgh, and \$50,000 to the United Mine Workers of America. The unpaid bills included a miscellaneous assortment for telephone and telegraph, printing, badges and buttons, as well as \$35,000 for broadcasting.

The expensive Republican campaign left that party in the following embarrassing position:⁴⁸

Unpaid obligations	
Borrowed money.....	\$ 45,000
Unpaid bills.....	912,262
	<hr/>
Total.....	\$957,262
Cash on hand.....	41,948
	<hr/>
Net deficit.....	\$915,314

Up to March 1, 1937, there had been little change in this situation. The task of clearing the party of its indebtedness and of building an organization for 1940 calls for vigorous leadership and an active publicity campaign. So far, little has been done. While Democratic headquarters teems with activity, the Republican organization remains dormant. Unless something is done, and done quickly, not "all the King's horses and all the King's men," or all the money of the du Ponts and the Pews, will put Humpty Dumpty together again.

From this analysis of the 1936 campaign funds it seems clear that the program of the Roosevelt Administration has served to sharpen the division on economic lines. The drastic reduction in contributions made by banks to the Democratic party, the increased support which the Republicans received from manufacturers, labor's support of Roosevelt, and the very large contributions which certain wealthy families gave the Republican party all point in this direction. The Republicans became more definitely than in the past few campaigns the party of "big business." Their campaign was the most extravagant, and probably the most wasteful, in campaign history. Captains of finance and industry poured their dollars into the fund without stint. Mr. J. Howard Pew, himself a generous contributor, probably spoke for many of them when he said: "Considering the importance of this campaign, I have felt it a duty and a privilege to make these contributions, and I expect to make further contributions, if necessary, to the cause. The American form of government, the fundamentals of our democratic society, the economic system under which our country has become the greatest in the

⁴⁸ These figures are from the supplementary report filed February 1, 1937.

world, are in jeopardy."⁴⁹ The "haves" rose generously to the defense of a system under which their fortunes had been made.

The Democrats, abandoned by the financiers, and with less support than usual from representatives of the larger manufacturing interests, drew heavily from the legal profession and from liquor and tobacco interests. They also had material support from two groups whose traditional allegiance seldom falters—office-holders and the South, irrespective of economic interest. Without the support of these two groups, they would have been in a sad plight indeed. Lastly, they wooed the "little fellow" diligently and to good purpose, and won substantial support from a new quarter—organized labor. The Democratic party emerged from the campaign less definitely the party of the "have nots" than the Republicans are the party of the "haves," but the "have nots" played an important rôle in financing its campaign. And what of 1940? Suppose office-holders prove less generous in a campaign in which the President who appointed them is not seeking reelection, that the legal profession is less enthusiastic about a party which has proposed modifications in the Supreme Court, that the pace of the party proves too swift for the South, and that the hostility of bankers and manufacturers is intensified. If any two of these developments take place, the party may find itself seriously cramped for funds. Under these circumstances, will organized labor and the small contributor come to the rescue, bringing about a new "Labor" party under an old name and the realignment on "liberal" and "conservative" lines that many have hoped for?⁵⁰ The ultimate consequences of labor's financial aid to the Democratic party in 1936 may be far-reaching indeed.

LOUISE OVERACKER.

Wellesley College.

The Trade Agreement Act in Court and in Congress. "Practically every volume of the *United States Statutes* contains one or more acts or joint resolutions of Congress authorizing action by the President in respect of subjects affecting foreign relations, which either leave the exercise of the power to his unrestricted judgment, or provide a standard far more general than that which has always been considered requisite with regard to domestic affairs."⁵¹ Thus did Mr. Justice Sutherland summarize the

⁴⁹ As reported in the *New York Times*, October 17, 1936.

⁵⁰ There is a possibility that Congress may prohibit contributions by labor organizations, as recommended by the Lonergan Committee (*Report*, p. 135), thus seriously handicapping the Democratic party. Such action seems unlikely, however, from a body including so many labor sympathizers. The issues raised by this proposal are too far-reaching to be discussed here.

⁵¹ *United States v. Curtiss-Wright Export Corporation*, decided December 21, 1936, advance reports, p. 11.

legal precedents for the President's actions in imposing an embargo on arms shipments to certain belligerent countries in South America, after Congress had delegated to him discretionary authority in such matters. This is more than a succinct historical summary. It is the first case in which the *dicta* of the Court has made clear that sharp line of distinction between the Chief Executive's discretionary powers in foreign affairs and those in internal matters.

For several months, a flood of protests against the President's discretionary powers under the Trade Agreement Act of 1934 have been accumulating in the Customs Court. Undoubtedly the decision of the Supreme Court in the "hot oil" cases, and in *Schechter Bros. v. United States*,² had much to do with stimulating this tide. Conversely, it would seem that the ominous words of Mr. Justice Sutherland in the recent *Curtiss-Wright* case, quoted above, would have been a deterrent. But such does not seem to have been the case. On the contrary, the protests keep piling up. One case which has come to trial in the Customs Court was dismissed on jurisdictional grounds, but a plea is being entered for a rehearing.

The public is now aware that the adjustment of tariff rates has become an important executive function. First, there was the so-called flexible tariff, adopted in the Fordney-McCumber Act of 1922. This act delegated to the President authority to alter tariff rates as much as fifty per cent whenever he deemed it necessary to equalize the difference in the cost of producing goods at home and abroad. The same act provided that whenever the change in *rate* would not effect an increase sufficient to meet the President's conception of cost-differences, he might adopt "American value" as the basis for duty assessments, instead of the customary foreign value. And to make the whole cost-equalization policy and plan complete, the Chief Executive was given authority to make new classifications whenever he deemed it necessary. That is, general paragraphs covering a number of items could be broken up into more specific classifications, wherein each item might be given a separate paragraph. This necessarily involved the writing of new language into the tariff act—something which the courts had never before recognized as an executive function. But all of this was given a clean bill of health by the courts. The Act's various features were vainly contested on the ground that there had been undue delegation of legislative authority.³

² 295 U. S. 79. L. Ed. 888; 55 Supreme Court 837 (1935). The so-called hot oil case, *Panama Refining Co. v. Ryan*, was decided January 7, 1935. This was the first case in which the Supreme Court held an act of Congress unconstitutional because it delegated too much discretion to the President.

³ *J. W. Hampton Jr. & Co. v. United States* (276 U. S. 394) and subsequent cases before the Customs Court, and the Court of Customs and Patent Appeals, are more fully discussed by the author of this article in "The President's Control of the Tariff" (Harvard University Press, 1936), Chaps. 2-5.

The Democratic minority in Congress denounced the flexible tariff plan as unconstitutional. It was charged that the delegation of authority to the Chief Executive to establish tariff rates on such an indeterminate basis as the equalization of foreign and domestic cost-differences—and with the added provision that he might consider “any other advantages or disadvantages” in competition—meant practically the abandonment of tariff-making by Congress. It was left to the President to make an impossible determination, or to use his own judgment as to what constituted differences in production costs, and other “advantages and disadvantages” in competition.

By 1930, the scheme had apparently become a permanent part of the Republican majority's program. Also, by that time the cost-equalization policy had been popularly recognized as a distinctly high-tariff policy. Consequently, when the Democrats regained control of Congress an attempt was made to repeal the presidential tariff plan. Mr. Hoover's veto was the only thing that saved it.

With the election of Mr. Roosevelt, Democratic fear of excessive delegation of legislative authority promptly subsided. It has since become a major concern of Republicans. In spite of Mr. Hull's great anxiety over the constitutional question of delegating authority to the President, the first year of the new régime offered little in the way of hope for a downward revision of the tariff by Congress. The Secretary of State found it expedient to proceed quietly, and with as little fanfare as possible. By June, 1934, it was possible to get the President's existing tariff powers augmented by an amendment to the Tariff Act of 1930 which provided machinery for tariff *reduction*. This amendment is commonly referred to as the Trade Agreement Act. Secretary Hull sponsored it as an emergency measure. It was given a three-year tenure to begin with. And Congress has lately passed a joint resolution extending these provisions until June 12, 1940.

Before outlining the specific provisions of the Trade Agreement Act, it will be well briefly to review its legal precedents in the field of reciprocity. These have been primarily the handiwork of Republican congressmen. Section 3 of the Tariff Act of 1890⁴ gave the President authority to impose provisional duties upon certain goods on the free list whenever he was satisfied that their importation was from a country which discriminated against the commerce of the United States. The imposition of such provisional penalty duties by the President was approved by the Supreme Court in the famous case of *Field v. Clark*.⁵ These provisions, which had caused much embarrassment in our South American relations, were omitted from the Tariff Act of 1894 by the Democratic Congress; but

⁴ 26 Stat. 12.

⁵ 143 U. S. 649. Chief Justice Fuller and Justice Lamar dissented.

with the return of the Republicans to power in 1897, section 3 was restored, and further authority was given the President to negotiate commercial agreements with countries producing certain enumerated items.⁶ The President was authorized to reduce duties, but was limited by the prescribed list of enumerated articles. These presidential tariff reductions were made effective when the concessions of the foreign power were *in his judgment* reciprocal and equivalent. Under this arrangement, reciprocal trade agreements, in which the Chief Executive reduced rates, were soon made. They remained in force until repealed by the Tariff Act of 1909.⁷

The present Trade Agreement Act was embodied in section 350, an amendment to the Tariff Act of 1930, which, as we have stated above, was adopted by Congress in June, 1934. It authorizes the President to negotiate trade agreements with foreign countries. The act allows him the discretion of reducing any existing tariff rates as much as 50 per cent when the other country has agreed to make such reductions as the President thinks are in keeping with a fair and reasonable reciprocity. His bargaining is limited to the dutiable list. He cannot transfer goods to the free list. Nor can he, under this act, transfer goods to the dutiable list, even though he may increase the duties 50 per cent as well as decrease them. The provisions for increasing duties are useful for penalizing countries which discriminate against the trade and commerce of the United States.⁸

This brings us to one other aspect of the agreements which has been the cause of much political controversy—the question as to whether the *conditional* or *unconditional* most-favored-nation principle shall apply in connection with the agreements. Under the former principle, which has been observed throughout most of United States history, this country has granted commercial favors to other countries only on a country-by-country conditional basis. That is, the favors extended to one country in

⁶ 30 Stat. 103. There was also added section 4, which provided for a 20 per cent reduction of duties in the general list; but this could become effective only upon the conclusion and *ratification* of a treaty. Such treaties were made, but none was ever ratified.

⁷ The items placed on this bargaining list were such that no great objection arose from the protectionists' quarter, and apparently no case involving the constitutional question reached the Supreme Court. The case of *Field v. Clark* was regarded as pertinent and binding.

⁸ One of the protests now pending before the Customs Court involves penalty duties imposed on goods from Germany. The importer had been enjoying the advantages of the Swedish trade agreement, by virtue of our most-favored-nation treaty with Germany. He now seeks to have the President's power to impose such penalty duties declared unconstitutional. In short, he seems to think that he can get the penalty duties declared unconstitutional on the ground that too much power has been delegated to the Chief Executive, without at the same time jeopardizing the favorable Swedish trade agreement.

a particular treaty have not, by virtue of a general most-favored-nation treaty, been automatically extended to other countries. Each country, under this principle, was the object of a separate negotiation. A wide variation resulted—in effect, discrimination. However, section 317 of the Tariff Act of 1922 (which is currently effective as section 338 of the 1930 act) definitely renounces the *conditional* principle, or principle of discrimination, and provides the President with authority to penalize with additional duties (or with an embargo) goods coming from a country which discriminates against the trade of the United States. At the same time, any trade agreement concluded by the United States with another country is to become effective with every country with which the United States has an effective most-favored-nation treaty. Since favored nation treaties are in force with most countries of commercial importance, each new reciprocity agreement concluded by Mr. Hull, and put into force by the President, widens the field of tariff reduction. The bitter opposition of the protectionists is the inevitable result.

II

In spite of the fact that the Trade Agreement Act obviously delegates a great deal of authority to the executive, the leading case in which its validity is being contested is not having smooth sailing in the courts. The difficulties thus far have been largely technical. However, since other cases are pending, perhaps the whole subject deserves consideration.

George S. Fletcher, who first took objection to the new reciprocity act, imported a number of crates of pineapples, which the collector of customs assessed at 20 cents per crate, as provided under the new Cuban trade agreement. Mr. Fletcher offered to pay more. It was his contention that the legal rate was 50 cents per crate (as fixed in the Tariff Act of 1930) less 20 per cent of that amount—the 20 per cent to be deducted under the first Cuban reciprocity act of 1902. He, therefore, insisted that the collector should accept 40 cents per crate instead of the 20 cents which he was willing to receive. And what may be even more surprising, Mr. Fletcher was willing and anxious to go to court about it. He appealed to the Customs Court under the provisions of sections 514 and 515 of the Tariff Act of 1930, which gives the dissatisfied importer a legal right to protest against the exaction of unjust duties.

The technical difficulty in Mr. Fletcher's case at once becomes obvious. It is a technicality which any person wishing to contest the constitutionality of the new reciprocity act may confront. Since the court's function is to give relief in real *cases or controversies*, where one party has been (or is about to be) injured by another, there seems to be little ground for suing the government because its agent has declined to assess a *higher* rate of duty. Where is the injury to the importer? What ground is there for a suit?

Under the common law, there is no remedy in such a case. But since Congress may prescribe the circumstances under which the government may be sued, statutory provision may be made which will allow an importer to protest on any ground stated in the statute. The plaintiff in the Fletcher case, therefore, has to depend upon the language of sections 514 and 515 of the Tariff Act of 1930, which specifically announce the conditions under which an importer may sue the government in case he is dissatisfied with the collector's decision. Counsel for Mr. Fletcher contended that section 514 was broad enough to cover an importer's protest against the collection of too little as well as too much customs duty. But this, at least, was not specifically mentioned in the language of that section.⁹ And in the absence of such a specific provision, Mr. Fletcher lost the first round in his suit. The Customs Court dismissed the case.¹⁰

But the plaintiff had not come into court without a precedent. Some twenty-five years ago, a Mr. Schwartz won a similar suit in the Court of Customs Appeals.¹¹ It seems to be the only case on record in which an importer in the United States has won a suit on the complaint that the assessment was too low.

Certain important points of distinction between the two cases should not be overlooked. In the first place, the Schwartz case arose under section 14 of the Tariff Act of 1897, which contained language different from that in section 514 of the 1930 act. The Court had been divided in opinion on the proper interpretation of the former statute. And Congress took

⁹ Section 514: Protest Against Collector's Decisions: "Except as provided in subdivision (b) of section 516 of this Act [relating to protests by American manufacturers, producers, and wholesalers], all decisions of the collector, including the legality of all orders and findings entering into the same, as to the rate and amount of duties chargeable, and as to all exactions of whatever character [within the jurisdiction of the Secretary of the Treasury], and his decisions excluding any merchandise from entry or delivery, under any provision of the customs laws, and his liquidation or reliquidation of any entry, or refusal to pay any claim for drawback, or his refusal to reliquidate any entry for a clerical error discovered within one year after the date of entry, or within sixty days after liquidation or reliquidation when such liquidation or reliquidation is made more than ten months after the date of entry, shall, upon the expiration of sixty days after the date of such liquidation, reliquidation, decision, or refusal, be final and conclusive upon all persons (including the United States and any officer thereof), unless the importer, consignee, or agent of the person paying such charge or exaction, or filing such claim for drawback, or seeking such entry or delivery, shall, within sixty days after, but not before such liquidation, reliquidation, decision, or refusal, as the case may be, as well in cases of merchandise entered in bond as for consumption, file a protest in writing with the collector setting forth distinctly and specifically, and in respect to each entry, payment, claim, decision, or refusal, the reasons for the objection thereto. The reliquidation of an entry shall not open such entry so that a protest may be filed against the decision of the collector upon any question not involved in such reliquidation."

¹⁰ Decided Dec. 2, 1936.

¹¹ *United States v. Schwartz*. 3 C.C.A. 24 (1912).

steps to amend the language so that there could be no mistake about it.¹² Later, when the Supreme Court had an opportunity to do so,¹³ it voiced disapproval of the Schwartz decision in the following language:¹⁴ "There have always been remedies by which an importer may recover an excess rate of duty exacted from him by a customs collector, either by common law action against the collector, as in *Elliott vs. Swartout* . . . or by statute . . . But the claim that even an importer may complain by appeal or otherwise of the exaction of too low a rate of duty seems not to have been asserted until 1912, when an appeal by an importer against an assessment as too low was sustained by the Customs Court of Appeals, . . . upon the theory that one might be aggrieved by an assessment too low as well as by one too high. *But this decision did not meet with favor and the remedy by appeal was confined to cases in which the duty imposed was claimed to be higher than authorized by existing law.*"¹⁵ Efforts on the part of Mr. Fletcher's attorneys to convince the Customs Court that Congress had meant to restore such a remedy, even though it was not specifically mentioned in section 514, were in vain.

III

It is quite obvious that Mr. Fletcher could have no interest, *as an importer*, in winning such a suit. The only plausible excuse for starting such an action in the courts was to provide a test case on the constitutionality of the trade agreements. The plaintiff's real object was to get the courts to declare the latest reciprocity act void—not, certainly, to improve an importing business, but to get a return to the higher protective duties of the Hawley-Smoot Act. This can lead the observer to but one conclusion: Mr. Fletcher's real interest is that of the domestic producer, and not the importer.¹⁶

American manufacturers have long considered that their interests are entitled to every protection. They feel that not only should the importer have a legal right to protest against a duty which he regards as too high, but also that the domestic producer should, by statute, be given the privilege of bringing an action in the courts on the ground that duties

¹² Act of Oct. 3, 1913, c. 16, 38 *Stat.*, Section III, Part N. This section provided specifically that importers could sue only in case the duty assessed was too high. The language of section 14 of the Dingley Act (1897), unchanged by the Tariff Act of 1909, provided that an importer could sue "if dissatisfied." A majority in a divided court in the case of Schwartz held that this covered objections of any kind, and was not limited to the common law protest against *excessive* duties.

¹³ The Supreme Court had no appellate jurisdiction in customs cases at the time of the Schwartz case.

¹⁴ *Louisiana v. McAdoo*, 234 U. S. 627, at p. 632.

¹⁵ The Court here cited the act referred to in note 12 above, i.e., the Underwood Tariff Act. The italics are mine.

¹⁶ This fact is admitted in the plaintiff's brief for a rehearing (February, 1937). He is attempting to show that the operation of the act is causing a serious injury to his business as a domestic producer in Florida.

which are being assessed are, for some reason, too low. Sympathetic majorities in Congress in 1922 and 1930 incorporated section 516 in the Fordney-McCumber and Hawley-Smoot Acts, respectively, providing for such legal protests by domestic producers. But such a spirit did not pervade the Democratic Congress which amended the 1930 act with the Trade Agreement Act of 1934 (section 350). On the contrary, when the latter was being considered, Senator Harrison introduced an amendment which provided that the domestic manufacturers' protest provisions of the Hawley-Smoot bill should not apply to any article with respect to the importation of which the United States had entered into a foreign trade agreement. This amendment was finally adopted. And the American manufacturer was left without an opportunity to contest the constitutionality of this act, except in the manner tried by Mr. Fletcher.

And this may prove a broken reed to lean upon. That the constitutionality of a statute cannot be attacked by one who has not been injured by its application, seems well established. "A litigant can be heard to question the validity of a statute only when and in so far as it is applied to his disadvantage," said the Court in *Rindge Co. et al. v. County of Los Angeles*.¹⁷ Therefore, since Congress has denied Fletcher a remedy in a suit as an "injured" domestic producer, and he can show no real injury as an importer, his chances for success in the courts appear to be slender indeed.¹⁸

There seems to have developed in the minds of domestic producers a belief that they have a vested right in a protective tariff. In a plea for a rehearing of his case, Mr. Fletcher now seeks to show that he has been injured as a result of the reciprocal trade agreement with Cuba. He is a producer of certain crops in Florida, and lowered duties are letting in competitive goods. Therefore, he is injured. That he cannot constitutionally be denied a right to sue where such an injury exists, seems to be the basis of his new contention. The plaintiff is undoubtedly confusing his situation with the use of the due process clause by the courts in setting aside unreasonably low utility rates.

In *ex parte Young*,¹⁹ it was found that a state could not deny the judicial process to a utility company whose rates had been made unreason-

¹⁷ 262 U. S. 700, 709-710. See also Cooley's *Constitutional Limitations*, 8th ed., I, pp. 339.

¹⁸ In *Mass. v. Mellon*, 262 U. S. 447, 448, the court asserted: "We have no power per se to review and annul acts of Congress on the ground that they are unconstitutional. The question may be considered only when the justification of some direct injury suffered or threatened, presenting a justiciable issue, is made to rest upon such an act. The party who invokes the power must be able to show not only that the statute is invalid but that he has sustained or is immediately in danger of sustaining some direct injury as a result of its enforcement, and not merely that he suffers in some indefinite way in common with people generally." The italics are mine.

¹⁹ 209 U. S. 123.

ably low by the state commission. But utility rates, as in the Young case, are not in the same category as customs rates. The due process clause has often been invoked to protect the property rights of utility companies against unreasonably low rates for services rendered. But a tax is different. It is not a toll for services, but a demand of sovereignty. It involves the power to destroy. Mr. Justice Sutherland put it plainly in the *Magnano* case:²⁰ "Nor may a tax within the lawful power of a state be judicially stricken down under the due process clause simply because its enforcement may or will result in restricting or even destroying particular occupations or businesses . . ." The question of the reasonableness of a tax rate has, throughout our judicial history, been regarded as a non-justiciable one.²¹ It must remain so unless the judges wish to set themselves up as a council of Elder Fathers who are going to legislate from the bench. Imagine the problem of sitting in judgment on the case of every citizen who regards his property tax as too high or a customs tax as too low.

But Mr. Fletcher still has hopes of winning his suit. And should he fail, there will be others. In fact, the Customs Court's docket is being flooded with protests under the reciprocity provisions. Two of the leading cases are confronting technical difficulties very different from those in the Fletcher case.²² But eventually the courts may have to consider an objection to the Trade Agreement Act where its constitutionality may be more seriously questioned.

IV

The political dispute over the present reciprocity act has turned on the question of nomenclature. The Democratic proponents of the measure ominously labeled it a "trade agreement act." And the Republican opponents insist upon referring to the agreements as "treaties." Since the statute makes no provision for Senate ratification, the latter are obviously hopeful that the Supreme Court will declare the agreements unconstitutional. As the original brief of Mr. Fletcher's counsel indicates, his case rests primarily upon the point that these "treaties," lacking Senate ratification, are void.

But why bandy words? On this point at least, the Court has already spoken. Similar trade agreements were made in pursuance of section 3 of the Tariff Act of 1897. And in the case of *B. Altman & Co. v. United*

²⁰ *A. Magnano v. Hamilton*, 292 U. S. 40 (1934).

²¹ Except in *Mr. Justice Butler's* reasoning in *Great Northern Ry. Co. v. Weeks*, 297 U. S. 135 (1936).

²² In *Von Damm v. United States* (T. D. 48485, August 10, 1936), a controversy over the special status of Cuba arose. This was anticipated in my monograph, *The President's Control of the Tariff*, pp. 53-55. Behind this case is also a bit of high politics. The Florida producers of fruits and vegetables are inducing the South American countries to raise the somewhat embarrassing question (from the "good neighbor" point of view) of Cuban status.

States,²³ the Supreme Court held one such agreement to be a treaty in the constitutional sense. In fact, a treaty is "a compact made between two or more independent nations with a view to the public welfare."²⁴ Undoubtedly this language is broad enough to cover all forms of international agreements. But, said Justice Day in the Altman case: "While it may be true that this commercial agreement . . . was not a treaty possessing the dignity of one requiring ratification by the Senate of the United States, it was an international compact . . . made in the name and on behalf of the contracting countries, and was proclaimed by the President. *If not technically a treaty requiring ratification, nevertheless it was a compact authorized by the Congress of the United States, negotiated and proclaimed under the authority of the President.*" Thus he implied that it was legal, even though the agreement in question was "not technically a treaty."

The proponents of the reciprocal trade agreements will doubtless maintain that such arrangements are merely fluctuations of the tariff rates according to a given policy and plan prescribed by Congress, and within specified limits. This delegation of authority is no greater than that which continues to exist under the cost-equalization policy of the two previous tariff acts. While the technical point of no Senate ratification may be raised, it may very reasonably be argued that the consent of the whole Congress is not inferior, in matters of this kind, to the consent of the Senate alone.²⁵ The supreme legislative authority is Congress. Revenue measures are regarded as peculiarly within the perview of the two houses of Congress rather than of the Senate alone. The power of the President and the Senate is necessarily subordinate in some respects. An ordinary act of Congress may abridge a treaty at any time.²⁶ And what is to prevent a bare majority of both houses (the supreme authority in revenue matters) from laying down a policy and plan to guide the Administration in its future actions? Congress can as well give its consent to specific tariff changes before as after a given contingency arises.

And finally, should a contestant win his suit by getting the Supreme Court to declare the Trade Agreement Act unconstitutional on such a minor technicality, there is nothing to prevent Congress from passing a resolution which would promptly put all tariff rates which had existed under the agreements immediately back into full force and effect for the duration of such period as desired. In short, Mr. Fletcher has little chance of ultimate success, except with the tacit approval of Congress as well as with favorable action from the courts.

JOHN DAY LARKIN.

College of the City of New York.

²³ 224 U. S. 583, 600.

²⁴ *Bouvier's Dictionary*, II, 1136.

²⁵ *Green v. Biddle*, 8 Wheat. 1, 85; *Virginia v. West Va.*, 11 Wall. 39, 59; *Foote v. Fleegeer*, 11 Peters, 185, 209.

²⁶ *Head Money Cases*, 112 U. S. 580, 589.

PUBLIC ADMINISTRATION

Reorganization of the General Accounting Office. President Roosevelt's message of January 12 urging a thorough reorganization of the administrative branch of the federal government was greeted by a Congress undoubtedly astounded at the number and revolutionary character of the reforms advocated. Among the suggestions around which opposition has crystallized is the proposed redistribution of the General Accounting Office's functions relating to accounting, expenditure control, and auditing between a more circumscribed "General Auditing Office" and the Treasury Department. It is unfortunate that the benefits to be derived from this reorganization are not widely recognized. On the contrary, the move easily lends itself to characterization as an arrogation of further power on the part of the Chief Executive and an attempted removal of the administrative branch of the government from any effective control by Congress. In the words of Senator Vandenberg, "it would put a muzzle on the only watch-dog that's left around here." Publicity is given to the "proposed abolition of the Comptroller-General's office," as though this independent critic of Administration expenditures were to be done away with entirely. Actually, under the President's plan provision is made for an independent audit which could be made more effective than the confused control exercised by the Comptroller-General under the present arrangement. In addition, the recognition of accounting and expenditure control as fundamental elements of management would bring into the federal system an increased efficiency in administration which is sadly needed.

Let us examine briefly the three major functions of the General Accounting Office—namely, accounting supervision, expenditure control, and audit—with a view to the effect which reorganization would have upon each.

Accounting System. Under the Budget and Accounting Act of 1921, the Comptroller-General was authorized to keep the personal ledger accounts of disbursing and collecting officers, and in addition was directed to "prescribe the forms, systems, and procedures for administrative appropriation and fund accounting" in the federal departments and establishments. As is pointed out by the President's Committee on Administrative Management, "fifteen years have since elapsed, and still no comprehensive and adequate system of general accounts has been developed by the Comptroller-General's office."¹ Those who looked to the act of 1921 to bring about marked improvement in our governmental accounting systems have been sadly disappointed. There are several possible explanations for this lack of progress—the difficulty of changing established procedures, the tremendous work-load already carried by the

¹ Report of January, 1937, p. 20.

General Accounting Office, the adequacy of existing accounting methods for auditing purposes. Whatever the cause, the result has been a complete failure to recognize and utilize the value of general accounts for *administrative* purposes. Such accounts furnish the information necessary for a continual and enlightened redefinition of administrative practices and policy. They are the necessary foundation of current control of subordinate officials by those responsible for the workings of the administrative branch as a whole. Budgetary plans, borrowings and debt administration, expenditure curtailments, transfers of funds, efficiency research—all these are executive functions which make efficient administration possible. Yet an executive without an accounting system fashioned and controlled with due regard to its management as well as its auditing value is like a carpenter without his tools. How many successful private firms would be willing to surrender accounting control to an independent auditing agency? The answer is obvious, since accounting is a tool of management (as well as a safeguard against dishonesty) and is treasured as such.

President Roosevelt is not the first to see the defect in our federal treatment of the accounting problem. Mr. A. E. Buck and other leading scholars in the field of fiscal administration, ex-President Hoover, and, interestingly enough, a special committee of the United States Chamber of Commerce, have all advocated the centralization of accounting in an agency directly under the President. The present plan, by transferring to the Secretary of the Treasury the "authority to prescribe and supervise accounting systems, forms, and procedures in the federal establishments," would accomplish this long-delayed reform.

Control of Expenditures. The apprehension of numerous distinguished witnesses² in 1919 did not prevent Congress from uniting under the Comptroller-General the functions of controlling expenditures and conducting an independent audit. This was in direct contrast to progressive business practice, which draws a sharp distinction between internal financial control (a function of management) and external financial control (a safeguard on behalf of the owners),³ and was also in contrast to the fiscal organization of the British government. Fifteen years of experience under Mr. McCarl's administration of the General Accounting Office have borne out the fears of 1919 and have increased the number of those who are convinced that a separation of "controlling" and "auditing" functions is essential.⁴

² These included Governor Lowden of Illinois, then Secretary of the Treasury Carter Glass, President Goodnow of Johns Hopkins University, President Butler of Columbia University, Mr. Henry L. Stimson, and Dr. Frederick A. Cleveland. See *ibid.*, p. 21.

³ See G. C. S. Benson, *Financial Control and Integration* (1934), Chaps. 3-4.

⁴ Dr. W. F. Willoughby, who was largely responsible for the Budget Act of 1921, has been disappointed in the way General Accounting Office control has developed.

The delays resulting from an attempt to settle every detail of federal expenditure in the General Accounting Office are notorious. Months, and even years, are frequently required to investigate each small expenditure and to make final settlement of claims. Since it is removed from actual administration, the General Accounting Office constantly requires detailed information supporting a proposed expenditure of minor proportions. The cost of preparation may exceed many times the amount of the expenditure itself; thus, in May, 1935, when the T.V.A., through an oversight, made an underpayment of fifty-seven cents to a railroad company, the total cost of settling the claim, i.e., the time, correspondence, and photostatic copies demanded by the Comptroller-General, was between five and ten dollars. Delay and inconvenience to the spending agency do not justify a demand for fiscal irresponsibility. However, an officer within the administration, through familiarity with administrative practices and problems, could maintain effective control of current expenditures without requiring voluminous evidence explaining and supporting every cent which is spent. Unnecessary delays need no longer hold up administrative action and incur the ill-will and higher prices of those in private business who render the government goods and services.

The Comptroller-General has proclaimed himself the sole interpreter of appropriation acts and all statutes governing the expenditure of federal funds. In an early ruling, Mr. McCarl held that the decision as to whether expenditures of public funds are "authorized by law, and are for the objects or purposes for which the appropriations sought to be charged are available," is a matter for determination solely by the Comptroller-General, "and may not be adjudicated in any court."⁶ Or again, witness the following excerpt from a committee hearing in 1928:

Question: "As to the expenditure of appropriated money, according to your interpretation of the law, the Comptroller-General's Office is the court of last resort?"

Assistant Comptroller-General Lurtin R. Ginn: "Absolutely, except you gentlemen up here. . . ."

The result has been a legalistic interpretation which upon occasion has defied the intentions of Congress, the desires of the President, the rulings of departmental legal advisers and the Attorney-General, and the decisions of federal courts, including the Court of Claims.⁷ Few would ob-

He recently told the writer that he believed a separation of "controlling" and "auditing" functions is now desirable.

⁶ 3 Comp. Gen. Dec. 545.

⁷ *Hearings before House Committee on Expenditures in the Executive Departments on H.R. 12180*, 70th Cong., 1st sess., March 28 and 31, 1928.

⁸ Mr. McCarl has recognized only the authority of the Supreme Court in such matters. See Harvey Mansfield, "Judicial Review of the Comptroller-General," *Cornell Law Quarterly*, Vol. 20, p. 459 (June, 1935).

ject to Mr. McCarl's view that "however meritorious a claim, it cannot be allowed by the Comptroller unless there is some appropriation or statutory authority therefor." Whether or not that authority exists in a given instance is a different matter, and many of the Comptroller's rulings are arbitrary and 'unreasonably restrictive. The Employees' Compensation Commission, for example, following the general practice and under the wide discretionary powers granted it by the act of 1916,⁸ included occupational diseases under "personal injuries." The Attorney-General agreed to this reasonable interpretation, but it was overruled by Mr. McCarl,⁹ and an express sanction of the Commission's position by Congressional act¹⁰ became necessary. Again, the Comptroller-General has ruled that naval appropriations are not available to pay the travel expenses of dependents of naval officers ordered home pending change of station, in spite of contrary interpretations by the Secretary of War, the Attorney-General, and the Court of Claims.¹¹ Purchase of bridge-toll coupon books, despite a saving of 50 per cent, is illegal as an advance of federal funds before the purchased service is received.¹² Treatment of the walls and ceilings of a public building with sound-deadening felt is not an item of repair or preservation but an improvement, and is not payable from an appropriation for repairs and preservation of public buildings.¹³

In the third place, General Accounting Office control of expenditures has resulted in the substitution of accounting officer judgments for those of executive officers in matters properly of an administrative or discretionary nature. Such decisions by independent officers are inevitably characterized by a lack of knowledge and sympathy with respect to administrative policies, practices, and problems. Furthermore, when technical questions are involved, the very technicians whom we employ because of their expertness are pushed into the background. Among many expenditures of the Emergency Fleet Corporation objected to by Mr. McCarl were the lump-sum agreements under which government vessels were turned over to private operators for operation over agreed routes. Whatever the merits of the plan, it was adopted after careful administrative consideration and fourteen years of experience, and in full confidence that it represented the best plan for safeguarding the interests of the government in the liquidation of the Fleet Corporation.¹⁴ This was an executive decision and not properly within the jurisdiction of the accounting officers. The Comptroller-General's objection to many of the

⁸ 39 Stat. 742.

⁹ 2 Comp. Gen. Dec. 784.

¹⁰ 43 Stat. 389.

¹¹ See 34 Op. Att'y Gen. 346; cf. *New York Times*, March 9, 1935.

¹² *Hearings before the Committee on Military Affairs, House of Representatives*, "Tennessee Valley Authority," 74th Cong., 1st sess., May, 1935, p. 571.

¹³ 2 Comp. Gen. Dec. 301.

¹⁴ *House Document 321*, 72nd Cong., pp. 6ff.

operating and construction methods of the T.V.A. caused Dr. Morgan to state the issue in these words: "Whose judgment shall prevail, in the conduct of a huge construction job, the engineers on the job, or the auditors?"¹⁵ An examination of Mr. McCarl's T.V.A. audit report reveals the substitution of General Accounting Office judgments for those of T.V.A. experts at many points. These included technical questions involving specifications for complicated machinery and equipment and the need for emergency purchases, as well as management problems involving personnel and the proper use of T.V.A. automobiles.¹⁶ For example, a case in which a T.V.A. employee travelled 4,765 miles at a cost of two cents a mile was compared to a case of "mismanagement" in which another employee travelled only 268 miles at a cost of fifty-six cents per mile, most of which was set depreciation. According to the Comptroller-General, the latter employee should not have had a car of his own, but should have been assigned a car from a central pool, whenever one was needed. The facts in the case are interesting. The case of "bad management" concerned the construction superintendent in entire charge of the \$20,000,000 Norris project. No general pool of cars was maintained in that locality, and the superintendent had his car always at hand, ready to travel a mile or two at a time—from the dam site to the office, to the paymaster's office, to the warehouse. Certainly an efficient private firm would have ridiculed the suggestion that such a man should call on a central pool for a car or else walk around from place to place. On the other hand, the case of large mileage and low cost involved the daily commutation of the assistant superintendent from his home in Knoxville to the job at Norris, a distance of 25 miles. Actually, this was bad management, and as soon as a house was available for him in the town of Norris, he was moved there. The General Accounting Office's position in both cases was untenable.

Unreasonably legalistic interpretation of appropriation acts, on the one hand, and administrative decisions of the General Accounting Office, on the other, have the effect of compelling inefficiency in the federal administration. Under the Public Utility Holding Company Act of 1935, for example, the Securities and Exchange Commission was authorized to study and report upon the activities of investment trusts. Much statistical material was gathered, and the assembling, tabulation, and coordination of these data became necessary. With its own statistical personnel and equipment engaged in regular reporting, the S.E.C. felt that since the additional work was only temporary and the time element so im-

¹⁵ *Hearings (supra n. 12)*, p. 572.

¹⁶ See "Report of Audit of the Transactions of the Tennessee Valley Authority from June 18, 1933, to June 30, 1934, made by personnel of the General Accounting Office," p. 134.

portant, it would be most economical to contract with a private company for the job, and thus avoid the renting of additional equipment and the employment and training of new personnel. The Comptroller-General refused to sanction the contract, however, on the ground that Congress had "doubtless contemplated the performance of all duties" connected with the investigation by the regular employees of the Commission.¹⁷ He pointed out that the Commission had "authority" under the Holding Company Act for the acquisition of new equipment and personnel! In another ruling, the Comptroller held that the Postmaster-General cannot lease unused space in public buildings in the absence of specific statutory authority therefor.¹⁸ Under the act of June 15, 1935, the Secretary of Agriculture was authorized to acquire for parks and recreational purposes submarginal lands which were subject to rights-of-way, easements, and reservations, if in his opinion such reservations would not interfere with the use of the lands for the purposes of the act. The Secretary's statement that reservations on land purchased had been administratively considered and would not interfere with the intended use of the lands was not accepted by Mr. McCarl, who demanded in each particular case the complete facts upon which the conclusion was based.¹⁹ This resulted in much detailed gathering and preparation of data, which in some cases was deemed so expensive as to warrant in its stead payment of a higher price to secure the land unencumbered. In another connection, the Comptroller-General has declared illegal the leasing of space in public buildings for private use where payment is to be made through repairs in lieu of cash rentals. This decision was based on the general statutory prohibition of repairs amounting to more than appropriations therefor,²⁰ and prompted the Secretary of War to declare that the authority to lease buildings would be "largely an empty one."²¹

The compulsory inefficiency arising from General Accounting Office control of expenditures is most keenly felt in the case of business enterprises in which the government is engaged. Here freedom from legalistic and rigid regulations is essential. Economic and technological factors necessitate a responsive flexibility in procedure and management. Emergencies must be met promptly, customers must be pleased, advantage must be taken of favorable market conditions. The government corporation has been utilized as an administrative device largely in order to secure this desirable freedom in administrative and financial matters.²² While Mr. McCarl was unsuccessful in his attempt to secure complete

¹⁷ Unpublished decision, May 2, 1936.

¹⁸ Unpublished decision, April 14, 1936.

¹⁹ See 8 Comp. Gen. Dec. 633.

²⁰ 14 Comp. Gen. Dec. 169.

²¹ Revised Statutes, sec. 3733.

²² See M. E. Dimock, *Government-Operated Enterprises in the Panama Canal Zone* (1934), Chap. 9; also H. VanDorn, *Government-Owned Corporations* (1926).

control over fiscal transactions of all such agencies,²³ compliance with his regulations in the case of such enterprises as the T.V.A. has meant added expense.

The amount of federal funds "saved" through the expenditure control functions of the General Accounting Office has occasionally been estimated and offered in laudation of the Comptroller-General.²⁴ It cannot be denied that many illegal and unwise expenditures have been recovered, and still others prevented. On the other hand, few have stopped to think how much the activities of Mr. McCarl have *cost* the federal government in delays, in unreasonable interpretation of appropriation acts, in interference in matters properly administrative, and in compulsory inefficiency. President Roosevelt's proposed transfer of accounting and expenditure control to the Treasury will make possible the continuation of legitimate "savings," and at the same time will pave the way for the removal of much of the added expense and inefficiency which have been the price of our "independent watch-dog." It is too much to expect that red tape and friction between administrative and financial officers will entirely disappear under the proposed arrangement. Experience with the Comptroller of the Treasury before 1921 belies such an eventuality, and indeed a certain amount of disagreement is inevitable if both groups are conscientiously performing their duties. Obstructions to efficient administration, however, should be substantially decreased. The Secretary of the Treasury and the Attorney-General will both be in sympathy with the major policies and objectives of the Administration in power, and through cabinet meetings and other contacts they will possess at least a modicum of familiarity with the administrative problems of the federal departments and agencies.

Post-Audit. A post-audit by an agency independent of the spending authorities is an undisputed essential of good business and governmental practice. In business, it safeguards the stockholders; in government, it protects the taxpayers. Obviously, the independence of the auditing body is the very heart of this protection. In the Budget Act of 1921, the independence of the Comptroller-General was well insured, and a satisfactory audit was confidently expected. The additional power of disallowing expenditures was looked upon as a means of strengthening, rather than interfering with, this audit. The results, however, have not justified the expectation. Not only has the multiple function of the General Accounting Office had a disastrous effect upon executive and administrative action; it has also, in the words of the President's Committee, "failed to achieve an independent audit of national expenditures."

The Comptroller-General has been so busy with his controlling function

²³ See his *Annual Report, 1932*, pp. 13ff.

²⁴ E.g., 78 *Cong. Record*, 10423-24.

that any thorough and prompt audit of expenditures for the scrutiny of Congress has been impossible. A report of transactions concluded many months earlier is of relatively little value. Yet the General Accounting Office staff, commonly referred to as the most over-worked body in Washington, continues to carry on its function as conceived by Mr. McCarl in such a way that the "audits" become progressively more and more delayed and unsatisfactory. All accounts are sent to the Washington office, together with supporting material justifying proposed or as yet unallowed expenditures. This centralization of activities in Washington, together with detailed examination of supporting evidence, produces a congestion which is increased when readjusted expenditures return for final auditing. To the extent that the Comptroller-General has already given decisions on administrative questions, the final check-up becomes in effect a review of his own determinations and thus relatively worthless as an independent post-audit.

Furthermore, the value of an audit report depends in large part upon the consideration which it receives at the hands of the legislature. In the federal government, the Comptroller's reports have little effect upon Congress, in so far as careful study and remedial action are concerned. This is partly because thorough and prompt audit reports have not been forthcoming. Another factor is the nature of the reports which have been made from time to time. Thus, the T.V.A. report of 1935, due to the auditors' lack of familiarity with the enterprise and the tendency to make administrative decisions, is full of many ludicrous exceptions which Dr. Morgan riddled in committee hearings. After a spectacular "revelation" by Senator Austin, the whole document was soon discredited, and the issue became the distribution of functions between the T.V.A. and the General Accounting Office rather than the examination of an independent audit. Much the same is true of the Comptroller-General's audits of the Fleet Corporation's transactions, made public in 1929 and 1932.²⁵ Once the function of the General Accounting Office became properly defined as post-auditing, the energies of that agency could be devoted to the preparation of regular reports which would merit Congressional attention. Still another reason for Congress' indifference to previous audit reports is the absence of Congressional machinery conducive to study and utilization of the information furnished. The energetic, opposition-controlled Public Accounts Committee of the British Parliament offers striking contrast, and Mr. Buck's long-standing recommendation of a similar development in this country²⁶ should be adopted as a part of our fiscal reorganization plan.

Conclusion. The time is long past due to remedy the costly defects

²⁵ *House Document 111*, 71st Cong., and *House Document 217*, 72nd Cong.

²⁶ A. E. Buck, *Public Budgeting* (1929), p. 560.

which have appeared in our federal system of fiscal control. The recommendations of the President's Committee on Administrative Management are the result of careful study and are eminently sound. Accounting supervision and expenditure control are executive functions requisite to efficient administration and should be transferred to the Secretary of the Treasury, who is in turn responsible to the President. At the same time, an effective post-audit should be guaranteed by the continued independence of a "General Auditing Office" with properly defined functions.

Congress has the opportunity to destroy one more pillar of support for the old argument that government is inevitably inefficient. No progressive business organization would tolerate the exercise of executive functions by an independent auditor. True, government is spending the taxpayer's money. But is a successful private corporation any less the steward of its stockholders? It can hardly be repeated too often that an efficient, as well as an accountable, administration is democracy's hope of survival.

JOHN MCDIARMID.

Princeton University.

METHODOLOGY

Suggestions for a General Index for Political Science.* For some time, the growing stature of political science as an independent social science has been a notable feature in American universities. Yet, up to the present time, the categories of this new field of scientific endeavor have not found their way into the indexing departments of libraries, nor have they been recognized by indexers of other collections. Even the editors of encyclopedias, people of great learning and ability, have omitted some of the most significant topics of political science, because of the lack of any accepted index indicating the range of the field and focusing attention upon its primary categories. The *American Political Science Review* itself is confronted with the problem of a suitable subject-index. The growing complexity of all kinds of materials bearing upon the work of political scientists, and more particularly the increasing mass of public documents, has become more and more baffling. Even the skillful indexers of the *Congressional Record*, for example, seem unaware of the major topics of interest for political science, and thus no sign-posts of the usual kind have been made available to workers in our field. This state of affairs is our own fault. Political scientists have failed to get together on a suitable guide for libraries and other centrally placed distributors of information. They have not provided any list of subjects which might aid such people in their work. But if it is our fault, the fault is in part due to the controversial nature of our subject-matter. This controversial matter manifestly does not permit of the adoption of the point of view of any individual scholar. Hence, only an index embodying the emphases of conflicting points of view can have practical value. None but a modestly pragmatic foundation can make such an index broad enough to satisfy varying demands. Neither rigid logic nor a fanciful metaphysic will do. Unhappily, such a pragmatic approach to the problem will also be subject to extensive criticism on all sides. In fact, the danger is considerable that such an index will appear as unsatisfactory to everybody as do most compromises. The charge will be brought by the different schools of thought that such an index fails in consistency, order, and adequacy. Nothing but equanimity in the face of adversity seems left when one faces such criticism. Indeed, the author of this investigation and his assistant do not wish to identify themselves with the list of categories here presented, for they represent the viewpoints of many other scholars besides themselves.

The purpose of this survey, then, is to examine the possibilities of

* The research work involved in the preparation of the following material was made possible by a grant from the Committee on Research in the Social Sciences at Harvard University, for which the authors wish to acknowledge their thanks.

constructing an index of fundamental political science concepts. The method employed has been the preparation and criticism of a working index of general political science terms, of the sort that might be used by scholars in private research, or that might be made the basis of a subject-heading classification for libraries or an index to public documents. The attempt was made to confine this index to an arbitrarily limited number of terms; in effect, a search was instituted for the 100 most important (i.e., most common, most popular, most generally accepted, or most clearly defined) terms now in use by political scientists.

The need for a classification of political science categories has long been recognized. To take as a single example the problem of public documents: librarians freely admit that a subject-matter classification is here essential. Librarians have been confused and handicapped by the fact that government documents are not issued by author; further, some classification must be achieved which will cut across the lines of state, federal, county, municipal, and foreign documents, and eliminate the laborious search through shelves of meaningless titles to find the precise material needed. The various mechanical aids devised by the Superintendent of Public Documents have been of considerable help in specific cases, but have in no sense solved the basic problem, which is that of subject-heading classification. Collaboration between the research worker and the librarian is necessary for an adequate classification; and the first step is a formulation of the scholar's needs in the way of an index.

I

The preparation of the index began with a preliminary survey of (1) the sources from which material for an index could be drawn, and (2) methods of handling the material found. Using the writings of the last twelve presidents of the American Political Science Association as a foundation, a bibliography was selected which attempted to cover the whole range of political science. Of about 35 books examined, 22 were finally chosen for the preliminary survey. The categories used in the indexes of these books were alphabetized, and the resulting list was examined for duplication and for non-analytical categories such as proper names.

This preliminary survey brought four main results. First, it indicated that the general method adopted would be reasonably adequate; the use of indexes of scholarly writings in the field would furnish a satisfactory basis for the construction of a list of categories. In the second place, the preliminary survey revealed a rather high percentage of duplication among indexes, and a large proportion of proper names. This raised the question of whether it would be better to enlarge the list of sources, or to prepare a basic list of categories and thereafter check it against other

indexes or standard lists of categories. Third, the survey revealed a noticeable lack, in the indexes consulted, of public administration categories on the one hand, and of systematic analytical categories on the other. Finally, the survey furnished a list of 225 terms, condensed from a total of 548, which was made the basis of further procedure.

Revision of this preliminary list began with an examination of additional sources, enlarging the index to include those categories which had been lacking. This was followed by internal consolidation of the list to eliminate categories which could be combined, at the same time constructing fresh analytical categories where necessary. In this manner, the index was reduced to a total of 83 categories.

A series of checks was then employed. The index was first compared with the *Encyclopedia of the Social Sciences*, the *Dictionnaire d'Administration*, and the *Deutsches Handwörterbuch*. It was then sent to a mailing list of 100 scholars in the field of political science, and was revised on the basis of the comments and additions received from the 78 who responded. Finally, it was checked against the schemata of various general works on the science and method of government.

II

The criticisms received from the mailing list of 100 members of the profession raised practically all the problems involved in a project of this sort. In general, these may be grouped under three headings: the technical problems suggested by the attempt to construct a subject-heading classification for libraries; the quasi-technical problems encountered in making the list useful to scholars for private indexing; and the scientific problems presented in constructing a consistent framework for the terminology of political science as a whole. Of the specific criticisms made of the tentative list, four were repeated by several individuals: that the list was not sufficiently detailed; that it lacked consistency in the type of terms used; that many of the categories were ambiguous or did not represent any generally accepted definition; and that it showed no coherent or coördinated scheme of reference.¹

The primary requisite for a subject-heading classification for libraries is comprehensiveness. Whatever the general frame of reference, the classification must be able to contain all possible titles. This indicates a classification elaborated into practically endless detail, not only by means of

¹ The statistical data concerning the inquiry are as follows: 100 scholars were circularized, of whom 78 replied, 32 of them accompanying their reply with more or less extensive letters of comment. These 78 scholars added a total of 323 separate categories to those presented for their criticism. Naturally, individual categories not repeated by anyone else were most numerous. Of these there were 208, while only one category was demanded by 10 individuals.

subdivision, but by cross reference to synonyms and antonyms. Thus, the classification used by the Public Administration Clearing House in its Joint Reference Library includes approximately 3,000 subject-headings. On the other hand, the Municipal Reference Library of the University of Minnesota has worked out a classification of subject-headings with only 21 basic terms, which has been elaborately subdivided for practical library use. Moreover, neither of these systems offers more than a partial classification, covering a limited portion of the field of political science.

The comments offered by members of the profession indicated that the tentative list should indeed be enlarged. Representatives of each of the various divisions of political science offered additions to the list on the basis of their special interests, enlarging the index to approximately four times its original size. It is significant, however, that a relatively large amount of duplication was found here, certain categories being repeated in the comments of several scholars. Further, the index remained basically the same sort of compromise affair that it was when sent out; the concepts which scholars considered fundamental included categories both broad and narrow, concrete and abstract, as of equal significance. Thus, the broad terms "Administration," "Political Theory," and "Jurisprudence" were suggested; similarly "Collectivism" and "Liberalism." The comparatively narrow term "Immigration" was considered essential by a relatively high proportion of scholars; similarly, "Mandates," "Unicameralism," and "Treaties." Both "Pressure Groups" and "Propaganda" were favored strongly. To suggest that the collaborating scholars gave merely their casual and unconsidered reaction is only to strengthen the point that compromise is inevitable.

A second requisite for the library index is clarity of terms. Vague and ambiguous categories must either be eliminated or in some way given a clear and unmistakable meaning. The present survey indicates two methods by which this might be accomplished: subdivision and cross-reference. The possibility of achieving a completely uniform terminology, i.e., a system using exclusively abstract or concrete terms throughout, seems small; the replies to the mailing list supported the writers' initial conviction that there is no general agreement, but rather the contrary, about the definition of political science terms in the first place, and about the possibility of, or even the need for, such definition in the second place. Thus, students of public administration do not uniformly accept the subdivision of "Bureaucracy" into "Hierarchy" and "Function"; indeed, the replies indicated no mere indifference but a sharp clash of opinion as to this term's meaning and significance.

Still, the collaborating scholars either suggested or implied that a degree of consistency in definition may possibly be attained by the use of these two techniques; if nothing else, they precipitate the conflict of

opinion as to meaning, and force the political scientist to think about his own definitions. He must ask himself, for instance, whether an abstract category should be subdivided into further abstractions or into concrete terms? Should subdivision be employed for the purpose merely of practical definition, or for the achievement of logical consistency?

In the construction of a pragmatic index, both subdivision and cross-reference must be adapted to the general need for compromise; this has been the guiding principle in the present instance. Thus, "Public Opinion," "Propaganda," and "Pressure Groups" have all been considered primary categories; but to the relatively concrete term "Pressure Groups" has been added the subdivision "Lobbying." "Convention" has been subdivided into "Constitutional" and "Political"; and under the term "Constitution" has been subsumed "Constitutionalism." "Direct Legislation" has been subdivided into "Initiative," "Referendum," and "Recall." These are all merely suggestive, as is the index in general; the assumption is that it can be enlarged or altered along these lines as specific circumstances require.

The same point can be made in the case of the cross-reference problem. Where the technique of subdivision is employed to achieve an index condensed into a very few basic categories, cross-reference is useful in attaining a workable compromise between abstract and concrete terms, both types being used as primary categories. Thus, under "Colonial Policy" may be indicated "League of Nations" and "International Organization"; both these latter terms were given a high proportion of votes by the scholars circularized. Or, a category like "Law Enforcement" may be used both as a primary term and as a subdivision of "Public Safety," by means of cross-reference. The needs of the particular problem at hand will in any case determine the specific use of terms; but this is not to say that specific cases will actually alter the definition of terms.

The problems of the librarian formulating a classification of subject-headings for book titles and the problems of the scholar making an index for a book or for a mass of research materials are different only in degree; the points just discussed are common to both. It is hoped that the index here presented may serve as a point of departure for elaboration in the former case and refinement of definition in the latter.

The point of criticism most interesting to the political scientist is the matter of a general frame of reference for political science terminology as a whole. In the present case, this inquiry has been confined within strictly pragmatic limits, indicated by the query: For the purposes of an index, what sort of framework is most adequate for grouping the terms used?

One type of framework might be an enumeration of the "fields" within political science: public law, comparative government, political theory, public administration, international law, and the like, with appropriate

subdivisions under each major heading. From the practical viewpoint, this system would not be wholly undesirable; the classifications made to date have covered single fields in just this fashion. Further, as one collaborator suggests, each library collection has its own peculiar problems. It may well be, therefore, that this sort of classification will be the most that can be attained, and that attention should be concentrated upon clarifying the terms within these subdivisions.

A second type would cut across the divisions of political science to classify its fundamental terms into groups such as "Conception of Powers," "Structure of Machinery," "Ends of Power," "Political Processes," "Remedies," and "Sanctions." This approaches closer to a scientific scheme. The problem here confronted is the lack of consistent framework among the divisions of the science; certain specific terms agreed on as fundamental defy subsumption under any of these headings. The most that can be done, perhaps, is to keep this sort of division in mind as the index is being prepared, to make certain that no material which properly falls within these groups is neglected.

A third type of framework is that employed by the authors of general treatises on the science and method of government. The same problems apply here as in the second type of organization; but this method has the advantage of offering a technique both available and usable in the actual construction of a classification. It was used in the present instance by abandoning the alphabetical form of the list in favor of an outline suggested by chapter headings and internal structure of various works on political science. However, this merely secures more adequate inclusion; as an attempt to discover a systematic scheme of reference which might be generally accepted, it is admittedly inadequate.

III

The foregoing discussion has been based at all points on the survey as actually conducted; the problems as presented were all explicitly raised or implied in the replies received from the scholars circularized. To summarize briefly, the index offered as a result of the inquiry is admittedly a compromise. There is an element of inconsistency in its make-up: some categories are very wide, others quite narrow; some are abstract, others concrete; some are nouns, others adjectives. An examination of the problems involved in preparing an index of this sort seems to indicate that this is not merely a result of the conflict between theoretical perfection of structure and considerations of flexibility in practical use; it is also a reflection of inconsistency and diffuseness in the field of political science.

Certain limitations on this type of inquiry are apparent. Unless the

inquiry is very strictly limited, the magnitude of the task and the scope of the knowledge required will make it impossible of conclusion or completion. A second major limitation may be described as the inevitable artificiality of separating the problems involved in preparing an index of political science concepts. In a field so dynamic, so constantly in flux, the research worker can do no more than momentarily pin down a specimen for examination; the selection of problems for study must necessarily be arbitrary, their description and analysis consequently somewhat artificial, and conclusions merely tentative.

Still, the study does reveal certain criteria which are at least useful in the preparation of such an index. Bearing in mind the compromise aspect of the undertaking, these may be enumerated as follows: (1) The index should be unambiguous, achieving this either by limiting the list of primary categories to terms whose definitions are very generally accepted as mutually exclusive by the profession, or defining the terms by careful subdivision and cross reference. (2) It should be comprehensive, to the extent that the primary terms reflect the major divisions of political science. (3) It should be flexible, for the purpose not only of fitting the needs of the individual scholar, but also of reflecting the changing social situation and changing pedagogical ideas.

In conclusion, a word should be said about the question, explicitly raised by some of the scholars circularized, of whether this type of inquiry is worth while. The unusually large response to the questionnaire indicates that there is at least a widespread desire for the clarification of terminology; and the problems brought out in the analysis of replies suggest that while existing confusion is great, it is accidental rather than inherent. Perhaps a better statement of this general question would be: Which lines of inquiry are most fruitful? It is hoped that this survey, and the index offered, may here be suggestive. It is the writers' belief that if a thoroughly pragmatic approach to the inquiry is maintained, the resulting index must be of some value. It can become the basis of a working subject-heading classification in libraries; it can be refined for the purposes of the individual scholar; and it will assist in the work of encyclopedists seeking to cover adequately the more general topics in political science terms. If consistency cannot be attained, at least it is possible to reduce confusion. The following list is offered as a point of departure. Perhaps, as time goes on, the viewpoints in our science will converge and allow greater consistency, as now exists in other sciences. Perhaps some new Aristotle, a genius for wide-range classification, will be stimulated to construct a completely consistent categorical scheme and secure its acceptance by all schools of thought. We submit the result of our inquiry for what it may be worth as a foundation or as a target.

- | | | |
|-----------------------|------------------------|--------------------------------|
| Absolutism | Constitution | Industry |
| Accounting | Constitutionalism | Insecurity |
| Administration | Convention | Integration |
| Judicial | Constitutional | International Govern- |
| Municipal | Political | ment |
| Public | Coördination | International Organiza- |
| Aggression | Crown | tion |
| Agriculture | Monarchy | International Relations |
| Amendment | Custom or Precedent | Interpretation |
| Amending Power | | Judicial Process |
| Appointment | Decentralization | Judicial Review |
| Appropriations | Defense | Judiciary |
| Arbitration | Delegation of Power | Courts |
| Industrial | Dictatorship | Jurisdiction or Compe- |
| International | Differentiation | tency |
| Judicial | Diplomacy | |
| Army | Direct Legislation | Labor |
| Audit | Initiative | Law |
| | Referendum | Administrative |
| | Recall | Admiralty |
| Balance of Power | Disarmament | Common |
| Bicameralism | Discipline | Constitutional |
| Bill of Rights | Due Process | International |
| Bi-Party System | | Natural |
| Borders or Frontiers | Economy and Efficiency | Law Enforcement |
| Budget | Education | See Public Safety |
| Bureaucracy | Elections | Leadership |
| | Electoral System | Boss Rule |
| Cabinet System | Electorate | League of Nations |
| Campaigns | Emergency Powers | Legislation |
| Capitalism | Equal Protection | Legislative Branch |
| Caucus | Executive | Legislature |
| Censorship | | Liberalism |
| Centralization | Faction | Local Government |
| Charters | Fascism | Municipal |
| Civil Divisions | Federalism | Rural |
| Civil Service | Foreign Affairs | State |
| Classification | Alien | |
| Codification | Emigration | Majority |
| Collectivism | Immigration | <i>Matériel</i> Administration |
| Colonial Policy | Function | Mercantilism |
| Mandates | Functional Representa- | Minority |
| See International Or- | tion | Monetary Policy |
| ganization | | Monopoly |
| Committees | Government Corpora- | Multi-Party System |
| Communications | tions | |
| Communism | Government Owner- | Nationalism |
| Competency or | ship | National Policy |
| Jurisdiction | Government Regulation | National Socialism |
| Conference | Grants-in-aid | Natural Resources |
| Conservatism | | Navy |
| Constituency | Hierarchy | Admiralty |

Neutrality	Propaganda	Economic
Nominations	Proportional Representation	Judicial
	Publicity	Military
Ordinance	Public Interest	Political
	Public Opinion	Religious
Pacifism	Public Safety	Secular
Parliament	Law Enforcement	Secretariat
Parliamentarism	Police	Separation of Powers
Parties	Public Welfare	Socialism
Paternalism	Purchasing	Sovereignty
Peace		State, Theories of
Personnel Administration	Radicalism	Tariff
Planning	Regionalism	Taxation
Platforms	Removal	Tenure
Plebiscite	Representation	Territorial Expansion
Police Power	Representative Assemblies	Annexation
Precedent or Custom	Responsibility	Trade Associations
Prerogative	Administrative	Treaties
President	Electoral	Unicameralism
Press	Political	
Pressure Groups	Religious	Vote or Ballot
Lobbying	Revolution	
Primary	Rules and Regulations	War
Prime Minister		Civil
Privilege	Sanctions	Foreign
Procedure, Legislative	Administrative	
Promotion		

CARL J. FRIEDRICH AND MARY C. TRACKETT.

Harvard University.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

Professor Harold J. Laski, of the London School of Economics and Political Science, visited the United States briefly during the spring, primarily to deliver lectures at the New School for Social Research, and also a Bronson Cutting Memorial lecture in Washington.

Professor Frederick L. Schuman has resigned his position at the University of Chicago and has accepted a permanent appointment as full professor at Williams College.

Professor Patterson H. French, of Union College, has been appointed assistant professor of government at Yale University.

At Cornell University, Dr. H. W. Briggs has been advanced from assistant professor of government to the rank of full professor.

Professor Rupert Emerson, of Harvard University, will be visiting lecturer in international relations in the department of government at Yale University during the year 1937-38, in place of Professor Nicholas J. Spykman, who will be on leave of absence.

At Dartmouth College, Drs. Hugh L. Elsbree and Harold J. Tobin have been advanced to full professorships.

Professor John M. Gaus, of the University of Wisconsin, served as visiting professor of political science at the University of Chicago during the spring quarter, without however relinquishing his work at Wisconsin.

Professor Harold F. Gosnell, of the University of Chicago, is out of residence for six months and has been appointed to the staff of the National Resources Committee for that period of time.

Professor Walter Laves, formerly of Hamilton College, but now Middle Western secretary of the League of Nations Association, acted as visiting professor of political science at the University of Chicago during the winter and spring quarters.

Dr. Heinrich Bruening, German chancellor from 1930 to 1932, has received an appointment to the faculty of Harvard University. He will lecture on government, and will also serve as a tutor in the division of history, economics, and government. One of his courses will deal with international economic policies.

During the spring, Professor Graham H. Stuart, of Stanford University, delivered a series of lectures at the École de Hautes Études Internationales, Geneva, on American foreign policy.

Professor W. Brooke Graves, of Temple University, will teach at the University of Texas during the second half of the coming summer quarter.

Mr. August Vollmer, professor of police administration at the University of California since 1931, is retiring at the close of the academic year and will henceforth devote his time to writing.

Professor William E. Mosher, director of the School of Citizenship and Public Affairs at Syracuse University, is lecturing on personnel at the Institute of Government at the University of Southern California in June of the present year.

Drs. Lewis Meriam and F. F. Blachly, of the Institute for Government Research, Brookings Institution, will give courses in public administration during the coming summer at the University of Chicago and Northwestern University, respectively.

The Edward Douglas White lectures on citizenship were given at Louisiana State University on April 19-20 by Professor Thomas Reed Powell of the Harvard Law School, whose subjects were: "Chartered Course and Political Currents," "The Aristocracy of the Robe," and "Some Contemporary Issues."

Professor William S. Carpenter, of Princeton University, has been appointed a member of the New Jersey State Planning Board. He will work during most of the coming summer on the Princeton Local Government Survey, which is now approaching completion.

Professor O. Douglas Weeks, of the University of Texas, will teach in the coming summer session of the University of Arkansas.

Miss Dorothy Schaffter, of Vassar College, is giving instruction in New York University's summer session in housing, community planning, and low-rental housing management, and after the close of the session will serve as one of three leaders of a tour planned for the study of housing in England, Sweden, Norway, Holland, Belgium, and the region of Greater Paris.

Dr. Henry M. Alexander, of the State Teachers College at Maryville, Missouri, has accepted an associate professorship of history and political science at the University of Arkansas and will conduct courses in government, beginning next September.

Dr. William O. Farber has resigned his assistant professorship at the University of South Dakota to accept the chairmanship of the department of political science at the North Dakota Agricultural College.

Mr. Barrett Hollister, assistant at Syracuse University, has been ap-

pointed instructor in political science at Antioch College for the year 1937-38.

Dr. John B. Rae, junior staff member of the Institute for Government Research, Brookings Institution, has accepted an appointment as administrative assistant to the president of Brown University.

Professor Alden L. Powell, of Louisiana State University, was elected chairman of the government section of the Southwestern Social Science Association at the annual convention held at Dallas, Texas, March 26-27, succeeding Professor William L. Bradshaw, of the University of Missouri.

Dr. Estal Sparlin has been promoted from assistant instructor to instructor at the University of Missouri for the 1937 summer session. He has been engaged upon an analysis of the finances of Reynolds county, Missouri, for the U. S. Resettlement Administration.

Professor Karl F. Geiser, who some time ago retired from active service at Oberlin College, is at present in Berlin, where he has lately translated a volume by Professor Sombart to be brought out by the Princeton University Press under the title of *A New Social Philosophy*. Last November, he gave the "Guest Lectures" in the Berlin Hochschule für Politik, and he has lectured at other universities as well. During the next two years, he expects to be engaged primarily upon an abridgment and translation of Sombart's *Der Moderne Kapitalismus*.

Guggenheim fellowships for 1937-38 have been awarded to Professor Harwood L. Childs, of Princeton University, for an historical study of labor and capital in German politics and Professor Ralph D. Casey, of the University of Minnesota, for a study of political party propaganda campaigns, the symbols that are current in electoral campaigns, and the agencies and channels through which effective symbols flow with the greatest success.

During the second semester of the past academic year, Dr. Kenneth P. Vinsel, of the University of Louisville, acted as head of the department of public welfare in the city administration. While Dr. Vinsel was on leave from the University, his place as department head was filled by Dr. Francis O. Wilcox, assistant professor of political science. Dr. Wilcox has been awarded a scholarship by the Carnegie Foundation for International Peace for study at the Academy of International Law at The Hague during the coming summer.

Undergraduates of Harvard College have launched a monthly magazine, *The Guardian*, devoted to history, government, and economics, with George S. Viereck, Jr., as managing editor. Faculty advisers include Professors Arthur N. Holcombe and Carl J. Friedrich, and already a

considerable circulation has been built up. The experiment will be watched with interest in academic circles.

Ground was broken on March 15 for the \$650,000 public administration center on the University of Chicago campus made possible by a grant from the Spellman Fund. The building will house the dozen or more organizations now quartered in the structure at 850 East 58th St.



The Conference on Jewish Relations is offering a prize of \$1,000 for the best essay contributing substantially to existing knowledge of the occupational distribution of Jews in the United States, and submitted on or before April 30, 1938. Information concerning the contest may be obtained from Professor Morris R. Cohen, 854 West 181st St., New York City.

The U. S. Department of State announced in March that objections raised by various governments have made it necessary to postpone indefinitely the publication of a number of volumes of diplomatic correspondence already prepared and designed to shorten the gap between volumes already issued and the present. Volumes dealing with Russo-American affairs in 1919 and with general international affairs in 1922 are, however, to be released shortly.

Among speakers participating in the fourth anniversary celebration of the Graduate Faculty of Political and Social Science, held at the New School for Social Research, New York City, on April 13-15, were Professors Max Ascoli of the Graduate Faculty, Harold D. Lasswell of the University of Chicago, Alvin Johnson of the New School, John Dewey of Columbia University, and Dean Lloyd K. Garrison of the University of Wisconsin.

The Bureau of Public Administration of the University of California has undertaken the preparation of a guide to the materials on regional, county, township, and district administration in the United States from 1915 to 1936 inclusive. The study, edited by Dorothy Campbell Culver, will be issued in November under the title of *Administrative Areas in the United States: A Bibliography*.

A John Anisfield award of \$1,000, for the best book on racial relations published between August 1, 1936, and December 31, 1937, is announced, together with a \$500 grant-in-aid for assistance in the completion of a study in race relations during 1937-38. Communications concerning the contest should be addressed to Mr. Henry S. Canby, 25 West 45th St., New York City.

The 1937 edition of the Political Science Personnel Service has been distributed to a number of administrative officers and heads of departments in colleges and universities, as well as to government officials and bureaus. This Service contains the records of one hundred and forty-six doctors of philosophy and graduate students who are qualified to teach or carry on research in the field of political science or to receive government posts here or abroad. Some of them have already accepted appointments and will not be immediately available unless released, and some hold positions at the present time but will consider positions that represent a promotion. Others with excellent records are seeking immediate locations. The Service is furnished free of charge to officers and institutions upon application to the Secretary-Treasurer, 305 Harris Hall, Northwestern University, Evanston, Illinois.

Continuing the policy long ago established by Dr. Charles A. Beard while he was director of the New York Bureau of Municipal Research, Columbia University maintains an undergraduate seminar on government conducted jointly by the staff of the department of public law of Columbia College under the direction of Professor Joseph McGoldrick and the members of the Institute of Public Administration under the leadership of Professor Luther Gulick. The personnel and library facilities of two independent sections of the University are thus made available for the study of a common problem. The topic dealt with during the past semester was the administrative problems created by the recently adopted New York City charter; and Dr. Robert H. Connery acted as general chairman.

On December 30, 1936, there was organized at Providence, R. I., a Society of American Archivists, whose objects are "to promote sound principles of archival economy and to facilitate coöperation among archivists and archival agencies." Membership is "individual" or "institutional," the former "restricted to those who are or have been engaged in the custody or administration of archives or historical manuscripts or who, because of special experience or other qualifications, are recognized as competent in archival economy;" and institutional membership is "restricted to institutions or agencies that have the custody of archives or historical manuscripts." All members are elected "by a majority vote of the full membership of the council," composed of five councillors and the four officers of the Society. Dr. A. R. Newsome, of the University of North Carolina, is president, and Dr. Philip Brooks, of the National Archives, secretary.

The ninth annual meeting of the Canadian Political Science Association, held at McMaster University, Hamilton, Ontario, on May 24-25,

was devoted very largely to discussion of topics of an economic nature. The meeting closed with an address by Professor W. A. Mackintosh, president of the Association. The Canadian Political Science Association was founded in 1913 and reorganized in 1929. The secretary-treasurer is Mr. V. W. Bladen, 273 Bloor Street, W., Toronto, Ontario.

Among principal addresses delivered at a conference on "Peace or War?" held at the University of Minnesota, April 7-9, were those of Professors William Y. Elliott, of Harvard University, on "National Ideas in Conflict," Peter Odegard, of Ohio State University, on "War Propaganda and Public Opinion," Pitman B. Potter, of the Graduate Institute of International Studies, Geneva, Switzerland, on "The League of Nations Today," David Bryn-Jones, of Carleton College, on "Can National Economic Policies Be Reconciled?," together with addresses by Professors Harold S. Deutsch, of the University of Minnesota, and Harley F. MacNair, of the University of Chicago, on national policies in conflict, in Europe and in the Far East, respectively. The addresses given at the conference will be published by the University of Minnesota Press as a pamphlet in the Day and Hour Series.

The thirty-first annual meeting of the American Society of International Law was held in Washington, April 29 to May 1. The presidential address of Dr. James Brown Scott took the form of a tribute to the late Elihu Root and an appraisal of his services in international affairs. Other principal addresses included: "The Inter-American Conference for the Maintenance of Peace," Charles G. Fenwick, Bryn Mawr College; "Constitutional Procedures for International Agreement," Charles Cheney Hyde, Columbia University; "The Effect of Governmental Controls on Neutral Duties," Lawrence Preuss, University of Michigan; "Recognition of Insurgency and Belligerency," Robert R. Wilson, Duke University; and "Insurgency and Maritime Law," Fred E. Nielsen, former solicitor, Department of State. Among those who spoke at the annual banquet were Professor Percy E. Corbett, of McGill University, and Senator David I. Walsh, chairman of the Senate Naval Affairs Committee.

The semi-annual meeting of the Academy of Political Science held at the Hotel Astor, New York City, on April 7 was devoted to the general subject of "The Foreign Policy of the United States—Political and Economic." Principal addresses included: "Democracy and Other World Forces," William R. Castle, former under-secretary of state; "Mechanism for Peace in Europe," James T. Shotwell, Columbia University; "Results of the South American Conference," Sumner Welles, assistant secretary of state; "The Policy of Neutrality," Senator Key Pittman; and "The Hull Agreements and International Trade," Francis B. Sayre, assistant secretary of state.

Under the joint auspices of the Carnegie Endowment for International Peace and the Arnold Foundation of Southern Methodist University, an Institute of Public Affairs devoted to the general subject of "International Institutions and World Peace" was held at Dallas, Texas, April 26-30. Among the leading addresses were: "The International Community and Its League System," Robert R. Wilson, Duke University; "International Law and World Order," Montell E. Ogden, Texas Technological College; "The Rôle of International Administration," S. D. Myres, Jr., Southern Methodist University; "The Process of International Settlement," Charles A. Timm, University of Texas; "The League and International Disputes," Royden J. Dangerfield, University of Oklahoma; "The Inter-American Peace Machinery," J. Lloyd Mecham, University of Texas; and "Our New Pan-American Policy," Francis B. Sayre, assistant secretary of state. In connection with the Institute, numerous "campus addresses" were given at Southern Methodist University, Texas Christian University, Trinity University, the Texas State College for Women, and Hockaday Junior College.

BOOK REVIEWS AND NOTICES

Grey of Fallodon; The Life and Letters of Sir Edward Grey, Afterwards Viscount Grey of Fallodon. BY GEORGE MACAULAY TREVELYAN. (Boston: Houghton Mifflin Company. 1937. Pp. xiii, 447.)

This is an admirably written biography of one of the outstanding figures in the history of Great Britain immediately preceding and during the World War—a history the course of which he himself did much to shape. The author is a well known historian who was an intimate friend of Grey during his life-time and was selected by Grey to be his biographer. At Grey's request, he devoted particular attention to his private life as revealed in his numerous letters to his first wife. The biography therefore deals not only with Grey as a statesman and director of the foreign policy of Great Britain during its most critical years, but also with that other unique personality which he possessed as a lover of nature, a fisherman, bicyclist, breeder of ducks, and gardener on his Northumberland estate, which he passionately loved and where during his busiest years he spent such time as he could snatch away from the Foreign Office in London. It is interesting in this connection to note that apparently the only suggestion he had to make regarding the Treaty of Versailles was that Heligoland should be made a bird sanctuary and placed under international protection. The quiet life of a country gentleman always appealed to Grey far more than politics, and more than once during his absorbing political preoccupations at the Foreign Office he expressed the wish that a fall of the Cabinet or the results of an election might release him in order that he might return to his beloved countryside where his heart really lay.

Like so many other English statesmen, Grey was educated at Oxford; although his record as a student was nothing to boast of, for we are told that in 1884 he was "sent down for incorrigible idleness" after repeated admonitions. However, forty-four years later (1928) he was elected Chancellor of the University "with universal applause."

He was chosen to the House of Commons in 1885 at the age of twenty-three, and was continuously reelected by his faithful constituents for more than thirty years. From 1892 to 1895, he served as Parliamentary Under-Secretary of state for Foreign Affairs under Lord Rosebery, and in December, 1905, he became Secretary of State for Foreign Affairs in succession to Lord Lansdowne—a post which he held for eleven years—"years of agony such as none of his predecessors since Castlereagh had had to face." Among the more important problems with which he was called upon to deal were the Persian question, relations with France, the Moroccan crisis, the Bosnian affair, the renewal of the Japanese Alliance.

the Balkan wars, and finally the outbreak of the World War. His biographer insists that it was Grey's wish to maintain friendship with Germany and that he had no desire to "encircle" her. If in fact Germany got herself into a situation in which she was encircled, it was due to her own action and was not a result of British policy. Had Germany consistently supported him in the work of pacification in Eastern Europe, the World War would have been postponed and possibly averted. It was her policy that led to the ultimatum to Serbia in 1914 and the outbreak of the war. Near the end of the war, Grey wrote: "I used to torture myself by questioning whether by mere foresight or wisdom I could have prevented the war, but I have come to think that no human individual could have prevented it. Nothing could have prevented it except a change of the Prussian nature."

Mr. Trevelyan's evaluation of Grey's foreign policy is, of course, sympathetic, although he is not blind to some mistakes which Grey made nor to certain weaknesses in his policy. He defends Grey against the criticism of Lloyd George that his point of view was insular, that he knew little of foreigners, that he never travelled, that Northumberland was good enough for him, etc., and he retorts that the little Welshman was none the less provincial although he "usurped" the conduct of foreign affairs from that "most travelled and instructed" of Foreign Secretaries, Lord Curzon. Grey, he says, did his best to preserve the peace of Europe; he valued especially the friendship of the United States, and sought in every way to strengthen it; he endeavored also to gain the friendship of France and Russia; but he refused to convert the entente with France into an alliance because he knew his colleagues in the Liberal party would not follow him. The criticism of his policy of authorizing military conversations between the British and the Belgian and French army chiefs and the Haldane army reforms to which they led was not justified, Mr. Trevelyan thinks, because without them the British expeditionary forces would not have reached France in time to prevent the capture of Paris by the Germans. Grey's only error in this connection lay in his failure to inform the cabinet of the military conversations in advance. But for this the Prime Minister, Campbell-Bannerman, who knew of them, was more responsible than he.

Adverting to the searchlight that has been thrown upon Grey's every act by the publication and critical examination of all the relative documents, his biographer says: "No British statesman has ever before been subjected to such a test, and few indeed could have borne it. The wonder is, not that faults have been found, but that his reputation has been so little scathed. The principles which were the pillars of his policy still challenge refutation. They failed indeed to keep the peace in the end; but they kept it for nine years, and they secured that Britain entered the war with powerful allies and with a fair name among neutrals on both sides

of the Atlantic. Where he failed no one could have succeeded; where he succeeded many would have failed."

In Grey's policy during the war, his biographer finds little to criticize. For the conclusion of the secret treaty of London in April, 1915, in which promises of territory were made to Italy as the price of her entry into the war on the side of the Allies, Grey has been much blamed. "But," says Mr. Trevelyan, "if he had refused Sonnino's demands and the war had been lost, what would men say of him now?"

Grey's poor health and increasing blindness as the years passed rendered impossible the continued performance of his heavy duties at the Foreign Office, and in December, 1916, he resigned, his qualms of conscience being lightened by the thought that his work would be carried on by Balfour and Robert Cecil. His long-hoped-for release having come, he now returned to his birds, which he could no longer see, and to his books, which he could no longer read. Under this affliction, he lived on for seventeen years. As if blindness were not enough, there followed a series of domestic tragedies in his life—the burning of Falldon and his cottage on the Itchen, the conclusion of a treaty of peace which he regarded as unfortunate, and the repudiation by the United States of the League of Nations on which his heart had been set from the first, and which he regarded as the one hope of the world. But these and other disappointments and afflictions which came to him "never broke his courage or soured his serene and constant spirit."

JAMES W. GARNER.

University of Illinois.

The King and His Dominion Governors: A Study of the Reserve Powers of the Crown in Great Britain and the Dominions. BY H. V. EVATT. (London: Oxford University Press. 1936. Pp. xvi, 324.)

This volume by Mr. Justice Evatt of the High Court of Australia is concerned with the personal discretion of the monarch (or his representative, the governor, in the Dominions), especially in such matters as refusing a dissolution of Parliament and dissolving Parliament on his own initiative. A number of incidents, mostly from the history of the Dominions and especially Australia, are acutely examined, and various authorities, notably Professor A. B. Keith, are taken to task for their easy generalizations on the subject. The conclusion reached is that many so-called precedents have no validity because decisions have often been arrived at in a haphazard manner, that the precedents are in many respects contradictory, and that there is no clear line of principle defining the limits of the monarch's personal discretion or the manner of its exercise. The author regards this situation as highly undesirable, and even dangerous.

He proposes that the reserved powers be carefully defined by statute, a method which would throw upon the courts the duty of deciding in a crisis where the bounds of personal discretion actually lay.

That there is obscurity in the present situation was shown all too plainly in the recent constitutional crisis resulting in the abdication of Edward VIII. But it may well be doubted whether statutory definition would solve the problem, which is probably inherent in a constitutional monarchy. The problem of definition, given its desirability, would in any case be difficult—Mr. Justice Evatt does not attempt a solution of it. There is, moreover, some reason to doubt whether the precedents are as contradictory and the subject as muddled as the author concludes. His approach is that of the lawyer, rather than that of the historian. It may be doubted whether incidents drawn from Australian states or Canadian provinces, or even from the federal governments of Australia and Canada, could be considered valid precedents for the action of the king towards his ministers in Great Britain. Historically, the monarch has occupied a different position vis-a-vis his ministers than has his representative, the governor-general of a dominion, towards his ministers. It would appear also that, historically, the lieutenant-governor of Australian states and Canadian provinces has exercised even more personal discretion than has the governor-general. It may well be doubted whether recent constitutional developments have completely altered these historical differences, and whether the same principles (if any principles exist) are, or ought to be, applicable at Westminster and at dominion and provincial capitals.

The volume, none the less, is a valuable critical study of one of the dark corners of the constitution.

ROBERT A. MACKAY.

Dalhousie University.

The Political Philosophy of Hobbes; Its Basis and Its Genesis. BY LEO STRAUSS. (Oxford: The Clarendon Press. 1936. Pp. xviii, 172.)

The author of this little volume is a German scholar now living in England, and the work is a translation from the German manuscript by Dr. Elsa M. Sinclair. Dr. Strauss is a student of Jewish thought and has already published a study of Spinoza's methods of biblical criticism. In fact, it was the study of Spinoza, apparently, that led to the study here under review. As Professor Ernest Barker points out in his foreword, there is "not only a parallel between the attitude of Spinoza to tradition and that of Hobbes;" there is also "the fact that Spinoza had used, if he had not entirely adopted, the moral and political philosophy of Hobbes."

The genetic method is used. There are chapters on "The Moral Basis," "Aristotelianism," "Aristocratic Virtue," "The State and Religion."

"History," "The New Morality," and "The New Political Science." There is also a preface in which the author states his aims rather fully.

Dr. Strauss holds that while the most important and most characteristic assertions of Hobbes are contradicted either directly or by the denial of their obvious consequences somewhere in his works, his fundamental view of human life is "not contradictory, but one and indivisible." Moreover, it is this view which is the real basis of his political philosophy—a view, Dr. Strauss contends, which "has its origin not so much in any learned or scientific preoccupation, but in actual experience of how men behave in daily life."

The moral attitude of Hobbes directs from the beginning five processes, and his political philosophy "is nothing more than the homogeneous connexion between the final stages" of these movements. The first of these is the movement away from the idea of monarchy as the most natural form of state to the idea of monarchy as the most perfect artificial state. The second is the movement away from the recognition of natural obligation as the basis of morality, law, and the state to the deduction of morality, law, and the state from a natural *claim* or right, and thus to the denial of every natural obligation. The third is the movement away from the recognition of a superhuman authority to a recognition of the exclusively human authority of the state. The fourth movement is away from the study of past and present states to the free construction of the future state. The fifth movement is away from honor as principle to fear of violent death as principle.

The Hobbes papers in the library of the Duke of Devonshire at Chatsworth have been examined. The book is carefully documented and indicates competent scholarship throughout.

E. ALLEN HELMS.

Ohio State University.

History of Political Thought in Germany from 1789 to 1815. BY REINHOLD ARIS. WITH A FOREWORD BY DR. G. P. GOOCH. (London: George Allen and Unwin. 1936. Pp. 414.)

Dr. Gooch, in his foreword, calls this book admirable, learned, thoughtful, and clear; and most of its readers will find his eulogy not exaggerated. The ultimate purpose of the author is to give the essential features of political thought in Germany from the French Revolution to the beginning of the World War in 1914. The present volume analyzes three fundamental phases of the period from 1789 to 1815: first, the repercussions of the Enlightenment and the French Revolution; second, the Romantic movement; and third, the reconstruction of Prussia and the beginnings of the growth of the movement for national unification.

Dr. Aris has performed this task in a truly historical spirit, that is, he has done far more than analyze and dissect political theories; he has ably selected the really representative thinkers of the period and has shown those economic, social, and moral forces in which their ideas were rooted and the impetus which their creative minds have given to the efforts of the future. From this point of view, he has dealt not only with philosophers and political thinkers in the proper sense but also with great poets, such as Goethe and Schiller, and the mystic, Novalis, and influential publicists like Gentz and Görres, highly characteristic exponents of the *Zeitgeist*, although without a complete system of political thought.

The ambition of the author seems to be even broader than this. Several times he draws the attention of his readers to the remarkable analogy between many aspects of the historic German thought and the doctrines of present-day National Socialism. In a time when many scholars and writers are inclined to treat present-day Germany exclusively in terms of social pathology, and when "half-baked" Freudian slogans and inferiority complexes serve as final explanations, it is extremely important to see that almost all the elements of the Nazi ideology (the cult of the will, of the race, of the soil, of the unconscious, the idea of leadership and authority, the rejection of the values of Western democracy, the tendency to return to the past in the form of the corporative state, the vehement antipathy to the Jews, etc.) can be found clearly stated and hailed by influential currents of public opinion in the romantic and nationalistic tendencies of these early decades. One almost has the impression in regard to the historical picture of Dr. Aris as a whole that the liberalism of Kant, the early Jacobinism of Fichte, and Humboldt's attachment to liberty are isolated phenomena in a sea of emotionalism and authoritarianism.

Space forbids a detailed treatment of the many acute observations of Dr. Aris and of his vivid picture of Germany in the time of the French Revolution: the hopeless division into three hundred states, the suffocating atmosphere of absolutism, the absence of a conscious middle class, the utterly metaphysical and moralizing tendency of her political philosophers, the pathetic intimidation of her professors by the governments of the princes, the non-existence of political parties, the slow growth of the national idea in a community where the idea of the state was almost lacking, the formative influence of Burke on the united front against the French Revolution, and many other keen characterizations of the German political situation.

The whole work shows great objectivity and originality. In addition to some minor points of difference, the reviewer has only one objection of principle, and this is that the author is inclined to over-emphasize the class motive in the political thought of the period, and that any deeper

metaphysical or moral foundation for theories appears to him to be due to a lack of understanding of the actual political and economic forces. This attitude causes him to be unjust in failing fully to realize the significance of Kant and in inadequate appreciation of more than relative political values.

The author has intentionally omitted the philosophy of Hegel because his real political system came to its maturity after the Napoleonic wars. Therefore, the philosopher of the State and the World Spirit will be the central figure of the second volume, which we have every reason to anticipate with great interest and pleasure.

OSCAR JÁSZI.

Oberlin College.

The Political Doctrines of Sun Yat-sen; An Exposition of the San Min Chu I. BY PAUL MYRON ANTHONY LINEBARGER. (Baltimore: The Johns Hopkins Press. 1937. Pp. xiv, 278.)

Here is a book which will be useful to students of political theory as well as to those primarily interested in the development of modern China. The greater part of Sun Yat-sen's writing is now available in English, but there has been until now no serious attempt, in any Western language, to provide a general exposition of the political theories upon which the great revolutionary laid the foundations of the Nationalist government. The present work is calculated to fill that gap. Basing his study upon the *San Min Chu I*, Dr. Linebarger realized that the sixteen hastily organized lectures of which that book is composed, although understandable to those already familiar with Sun Yat-sen's social and political views, are far from being self-explanatory. Accordingly, he has turned to other writings of Sun and his associates, to the history and institutions of Imperial China, and to the teachings of Confucian philosophy for material which will serve to complete and clarify the roughly outlined program contained therein.

After an enlightening first chapter dealing with "The Ideological, Social, and Political Background," the author embarks upon a detailed consideration of the "three principles" which are set forth in the *San Min Chu I*: *min tsu*, the principle of nationalism; *min ch'üan*, the principle of democracy; and *min shêng*, which he leaves untranslated but which is usually rendered as the principle of the people's livelihood. In Chapters II-IV, discussing the three principles as theories, Dr. Linebarger raises and answers a number of questions concerning Sun Yat-sen as a political theorist: the sources of his ideas, his reasons for regarding these points as essential to the continued existence of a Chinese state, and the process whereby he hoped to see them incorporated into the national ideology.

In his last three chapters (V-VII), the author turns from Sun Yat-sen the theorist to Sun Yat-sen the political leader, and his discussion deals with the definite programs found in the *San Min Chu I* for national unification, for the establishment of democratic institutions, and for insuring to the Chinese people the basis of a more adequate livelihood. In these three chapters, we find the programs of nationalism—political, economic, and cultural; the programs of democracy, with the three stages of military operations, political tutelage, and constitutional government; the programs of the people's livelihood, which were to involve economic, industrial, and social revolutions.

Modestly confessing that his own inadequate knowledge of the Chinese written language made him dependent upon Western translations for most of his source material, Dr. Linebarger does not offer his work as a contribution in the field of sinology. But, although he has not translated for us the basic Chinese texts to which he refers, he has accomplished a task equally important and perhaps no less difficult, for he has certainly made more understandable to non-sinologues of the West the ideology of modern China and the significance of Sun Yat-sen as a political theorist.

G. NYE STEIGER.

Simmons College.

Modern Politics and Administration. BY MARSHALL E. DIMOCK. (New York: American Book Company. 1937. Pp. xiii, 425.)

Every political scientist worthy of the name cherishes the dream of some day writing a comprehensive book on the philosophy and practice of government. For most, this commendable ambition never takes definite form. It remains a sort of Socratic dæmon which, although it eludes his grasp, profoundly influences the political scientist's attitude toward the works of others. He knows, or at least feels, what should be done; but the path leading to the perfect synthesis is beset with obstacles which only the genius of an Aristotle, a Machiavelli, a Bentham, or a Rousseau can overcome. The names of those who have tried and failed are legion. For some, the painfully pedestrian task of relating their dreams to the facts of a real world has been intolerable and impossible. Others have their vision clouded by preoccupation with the minutiae of practical affairs. To retain one's vision without losing contact with reality is the mark of genius.

Professor Dimock has failed to attain this high goal, but his awareness of the problem, his capacity for simple and lucid statement, and the wealth of material with which he deals place his book among the more successful of those which have made the attempt. I know of no other work written for the undergraduate mind that achieves the same measure

of success. As an introduction to the problems of government in the modern world, it is excellent. Beginning with Professor Goodnow's distinction between Politics and Administration, he clothes this concept with the vestments of actual practice and experience. The student cannot fail to see, if he reads with insight and understanding, that political science is something less than a divine mystery and something more than the counting of noses or man-hole covers. No other phrase in the lingo of our profession has been more misused than "functional approach." Much of what is described as "functional" in government is no more so than a medieval turret on a New England farmhouse. This criticism cannot fairly be made of Professor Dimock.

The proper "functions" of government can be appraised accurately only in light of the demands which men make upon the state. These demands vary with time and circumstance, and this fact is made abundantly clear in this book. The problems and processes of representation, of legislation and administration, of public service and control, are here properly projected against the background of modern technology and industrialism. Most of the data are taken from American experience, but enough is said of European conditions to convince the student that our problems are not wholly unique.

One can find plenty to quarrel with. Many vital psychological and theoretical assumptions are made without careful examination and without revealing that the author is aware of their logical implications. But the underlying thesis that in a democratic society "the touchstone of all policies is the provision of conditions which will make the 'good life' possible for people generally" is, I believe, incontestable.

PETER H. ODEGARD.

Ohio State University.

Coördination and Planning in the Local Authority. BY HARRY R. PAGE.
(Manchester: Manchester University Press. 1936. Pp. xvii, 427.)

As a result of the current revival of interest in local government in England, a number of studies are appearing which examine in a commendably realistic manner the modern functioning of local government institutions in that country. The one under review, by a member of the English local civil service, directs special attention to the fundamental problem of providing effective popular control over a rapidly expanding sphere of local government action.

This task, the author recognizes, is a primary concern of the local elective body, where responsibility rests for both the determination and the execution of local policy. An extended analysis of selected local units shows that the local authorities generally are still resorting to traditional methods of operation, which under modern conditions are inadequate to

the efficient performance of governmental duties. In the exercise of its deliberative function, the county or the county borough council is continually handicapped by the presence of a wholly disorganized, uncoördinated committee system. There are far too many committees; most committees are too large for effective work; and there are numerous instances of overlapping jurisdiction that gives rise to inter-committee jealousies, petty wrangling, and much general confusion. The consequence is that the council, instead of devoting its attention to questions of policy, must spend most of its time ironing out committee disputes and deciding an endless number of detailed problems which need never have come before it. At the same time, the council is unable to maintain proper control over administration, principally because there is no provision for centralized administrative management of the civil service staff. The town clerk is not trained, nor does he attempt, to perform the duties of a general administrator.

To remedy these conditions, the author advocates several reforms, the most important being: (1) a reorganization of the committee system with a view toward the reduction in number and size of the committees; (2) the creation of a general planning committee with authority to plan and coördinate the work of the regular committees, and to advise the council on all matters of general policy; and (3) the selection of a trained administrative officer to act as general advisor to the council and the permanent staff on all administrative matters. Of these proposals, only the third may be questioned seriously. It is difficult to see how centralized management and direction of administration can be achieved through a so-called general administrator whose administrative authority consists solely in offering advice to the civil servants.

On the basis of a wholly inadequate knowledge of American experience (Cleveland, it seems, still has a city-manager!), Mr. Page sees fit to reject the city-manager type of administrator as unsuited to the needs of English municipalities. A more thorough analysis might have led to a different conclusion. This defect, however, does not materially lessen the actual value of the book. On the whole, the study sheds much light upon a problem the solution of which will immeasurably strengthen the process of local self-government.

PAUL T. STAFFORD.

Princeton University.

State Grants-in-Aid. BY RUSSELL JOHN HINCKLEY. State of New York, Special Report of the State Tax Commission, No. 9. (Albany, N. Y.: J. B. Lyon Company. 1935. Pp. 221.)

This is the first fairly comprehensive study of grants-in-aid by American states to local governments, and as such it will have a wide useful-

ness. While the center of interest is the problem of state aid in New York, a considerable amount of comparative material from other states is introduced, and even a little from England. The chapters on state aid for education (III), highways (IV), and health and welfare (V) contain much data of value, while the introductory and concluding chapters suggest the various relations between state aid, on the one hand, and diverse problems of taxation, local government areas and organization, state supervision of local government, centralization, allocation of functions, and the reorganization of local government in general.

It is true, as the author says, that "a thoroughgoing examination of state grants-in-aid brings one into contact with most of the problems of state and local relations." It was a mistake, however, to attempt to cover all these relations and the whole field of local reorganization in one short report. Had the study been limited to the subject of state aid, and had it been based on a thorough first-hand investigation in several states, it would have been far stronger and more useful.

As it stands, the report would be more correctly entitled "Some Financial Aspects of State Grants-in-Aid, and the Reorganization of Local Government." It tells us very little about the legal, administrative, and political problems involved in a state-aid system—problems that are intimately bound up with the fiscal problem; but it does spread out very broadly into other fields, such as the size and adequacy of local government units, and the controversy over local self-government and centralization. In the latter regions, the author was not at home and had to content himself with piecing together the few things that he had time to read. These furnish a very inadequate foundation for the generalizations he made from them.

With the author's general thesis one can hardly disagree. That thesis is that state grants-in-aid, introduced as a means of equalizing tax burdens and of raising the standards of service in certain functions of statewide concern, should not become props for supporting weak and inefficient local governments. To test out the several parts of that thesis, many thorough state and local studies will have to be made. It will probably be a long time before a definitive comparative study of state grants-in-aid can be written.

WILLIAM ANDERSON.

University of Minnesota.

Reciprocity; A National Policy for Foreign Trade. BY WILLIAM S. CULBERTSON. (New York: McGraw-Hill Book Company. 1937. Pp. x, 298.)

Holding radically different conceptions of principles and methods for conducting foreign trade, men and nations are locked in a battle of ideas no less bitterly fought—because the weapons are reason, invective, and

economic sanctions—than are battles engaging the physical might of the contestants.

As former vice-chairman of the U. S. Tariff Commission, Mr. Culbertson enters the fray with the formidable weapon of broad knowledge gained from intimate experience with world trade problems. He states exactly where he stands: he is for the Hull reciprocal trade policy, and his book is an argument in its behalf. Using a brief foreign trade primer to show how trade barriers, which broke down the pre-war trading system, are understandable but fundamentally wrong, he prepares the way for his major thesis. "We have become a world state . . . Our overseas expansion will go on whether we like it or not . . . Our production, our finance, and our trade then must operate on a world stage. If they are confined within our political frontiers by a narrow nationalism, no amount of governmental regulation and of governmental generosity will bring real prosperity . . . I have become convinced that we cannot possibly pay out nationally except through a tremendous revival in foreign trade, both imports and exports, which in turn will stimulate and enlarge domestic trade and enterprise." This is precisely what Charles A. Beard calls "historic internationalism" and critically rejects as a way out of America's economic dilemma.¹ A comparison of the two books reveals the head-on clash of economic philosophies.

Discarding argument for exposition, Mr. Culbertson shows how the fundamentals of scientific tariff-making finally came as a by-product of the tariff football game played for years by politics. It came in three stages: the compilation of original data starting with the 1909 Taft Tariff Board, the flexible provision of the 1922 Tariff Act, and the Trade Agreements Act of 1934 enacted by Democrats but fathered historically by Republicans. The volume then describes the method and machinery for tariff-making, the means by which concessions are generalized through the unconditional most-favored-nation clause, the penalty weapon protecting American trade against foreign discrimination, the conditions required for negotiation, the advantages gained to date, and the legal aspects of the act. Closing the book are suggestions for a permanent foreign trade policy aimed to preserve the general purpose of the 1934 act, but designed to enlarge and improve it.

GEORGE H. E. SMITH.

Yale University.

Survey of International Affairs, 1935. By ARNOLD J. TOYNBEE, ASSISTED BY V. M. BOULTER. (London: Oxford University Press and Humphrey Milford. 1936. Two vols. Pp. ix, 455; xi, 568.)

These volumes, published under the auspices of the Royal Institute of International Affairs, are a continuation of the annual surveys begun by

¹ *The Open Door at Home*, Chap. 6, p. 112ff.

Professor Toynbee in 1924. The unusual importance of the events of 1935 is indicated by the publication of two volumes, which has not been necessary for any other year except 1925, when two volumes were also published (that being the Locarno year).

The first of the volumes for 1935 deals with the more general international events, classified with reference to Europe, the Far East, and World Economic Affairs, and including a detailed analysis of such matters as the Disarmament Conference and the negotiations with Germany concerning disarmament, the proposal for an East European pact of mutual assistance, the Franco-Italian agreements, the Stresa Conference, the proposed Danubian pact, the Anglo-German exchanges with respect to naval limitation and an air pact, the Danzig and Memel situations, the internal developments in China and Japan as well as the developments in respect of the relations of those countries to one another, Philippine independence, the problem of raw materials, the monetary problem, and others. In the preparation of this volume, Professor Toynbee has had not only the general assistance of Mr. Boulter, but also the special assistance of several able experts, who are responsible for certain chapters and who are fully credited for their work by the principal author. The second volume is devoted exclusively to the Ethiopian affair, and Professor Toynbee seems to assume a special personal responsibility for that volume.

The high standard of excellence set by the previous volumes in the series is here fully maintained. The analysis of the complicated problems is clear, detailed, comprehensive, sensitive to the various national interests involved, and generally objective. The qualification with respect to objectivity is made because Professor Toynbee himself frankly admits that he writes on Ethiopia with feeling and opinion, and he makes no pretense to complete objectivity. "In what follows, the writer has done his best to take account of all points of view which are relevant, and he has been particularly concerned to do justice to views that differ from his; but he will certainly not be found to have either avoided or counteracted an element of subjectivity that is inherent in all historical writing . . . Any presentation of a subject presupposes a point of view, and inevitably the picture comes to be drawn in the shape and painted in the colors in which it appears to the observer's eyes from his own angle of vision" (II, pp. vii-viii). His own point of view with respect to the Ethiopian affair is very well suggested by his opening sentences: "The tragic episode of international history which is recorded in this volume is a tale of sin and nemesis" (II, p. 1). As an Englishman, he is particularly disgusted with the attitude of his own country in this affair, and he has no hesitation in permitting that viewpoint to appear very pronouncedly.

Nevertheless, the account is, in the reviewer's opinion, entirely fair to

all parties concerned and the most satisfying that has yet appeared in print. The analysis of the problem of the oil sanction, for example, and of the attitude of the United States toward that problem and toward other aspects of the Ethiopian affair, shows a thorough comprehension of the involved nature of these problems and an unusual clarity in respect to American politics, traditions, and viewpoints. Nor is there any better analysis to be found within so few pages than that by Mr. H. V. Hodson of the problem of raw materials (I, pp. 340-388) and of the economic aspects of the Ethiopian affair (II, pp. 414-442).

Throughout the two volumes and the variety of problems dealt with, there is, in a sense, a single theme, namely, the vital importance of Germany in respect to all these problems. It is pointed out that, except for the part dealing with the Far East, "almost everything that is recorded in both the volumes will be found to derive ultimately from this fountain-head carved in the formidable shape of a reawakening Bellona with a German countenance." He thinks that German military recovery and the Ethiopian conflict were both quite directly consequences of the Franco-Italian Pact of January 7, 1935, "and thus, as the shades of evening fall again over Europe, the lengthening shadow of Germany stretches beyond Geneva till it touches Addis Ababa." He considers that Germany's part in the Ethiopian affair is not conspicuous, but that the Ethiopian events cannot be understood without reference to the other events in Europe, "and here Germany is unmistakably the central figure." If the British government had been as keen and as realistic as this Englishman, it seems altogether probable that the course of the Ethiopian affair would have been considerably different and the world somewhat less jittery than it is at present.

The two volumes are separately and excellently indexed, are supplemented with chronologies of international events and with maps, and are, in general, among the publications most useful to students of international affairs.

CLARENCE A. BERDAHL.

University of Illinois.

The Dangerous Sea. BY GEORGE SLOCOMBE. (New York: The Macmillan Company. 1937. Pp. 286.)

Is It Peace? BY GRAHAM HUTTON. (New York: The Macmillan Company. 1937. Pp. 364.)

If the story of peaceful human achievement no longer converges in the Mediterranean area, the same cannot be said of human conflict. Events within the past year or so clearly demonstrate that the Mediterranean—"The Dangerous Sea"—remains a focal point of political activity and

struggle of primary importance. The delicate mechanism of power-relations has been profoundly affected by the recent expansion of the Italian Empire, the modification of the Straits Convention (with its implications for Soviet Russia as a Mediterranean power), the international rivalry over Spain and Spanish Morocco, the Anglo-Egyptian accord, Italian battleship construction, the projected British naval increase, and the diplomatic competition of Britain and Italy for influence in the Arab and Moslem world. Strategic necessities and economic propulsions vie with political ambitions and racial and religious tensions in a measure fulsome but not unknown to the shores of the fabled sea.

George Slocombe has performed a timely task in assembling into one volume materials bearing on these and many other events which affect the destinies of Mediterranean peoples. Dealing with each country on the European, African, and Asiatic shores in turn, he has compressed into a small space the ingredients of ancient and modern history, economics, politics, and military strategy with an admirable sense of proportion. The result is a substantial and delectable offering. If Mr. Slocombe's romantic and journalistic proclivities provide embellishments which are not always substantial in fact, they are at least delectable and may, if dietary preferences require, be skimmed off like the frosting from the cake.

The volume with the faintly satirical title—*Is It Peace?*—surveys British foreign policy since the war in its international setting. Graham Hutton, the English author, weighs that policy in the balance and finds it sadly wanting. The catalogue of deficiencies includes "feeble initiatives, abject retreats, resounding humiliations . . . , lost opportunities . . . , lack of conviction . . . , and an indifferent cynicism." If consistency be a redeeming virtue, it is exemplified, the critic asserts, only in the "meek acquiescence" with which the British faced "the *faits accomplis* of [the] authoritarian Powers." Mr. Hutton excoriates the Conservatives particularly for failing to identify collective security with national interest. Britain held the magic key which might have unloosed France and her eastern satellites from their bondage of fear, and cleared the way for that disarmament agreement which Germany held a necessary condition to her much-valued equality. Had this course been adopted, and had the depression been met with international measures rather than Ottawa agreements, the tottering Weimar Republic might have been relieved from its national burden of adversity and outraged justice.

Few will quarrel with Mr. Hutton's implicit maxim that criticism begins at home, but in all fairness to Great Britain, the responsibility for all the might-have-beens of yesterday does not rest solely at her door. Nor can we fully share the author's lament that the British (and also the French) suffered from excessive timidity because political power still re-

sides with a generation whose mental habits were formed in the pre-war era. The world might better endure the caution of hoary age than the madcap antics of younger men elsewhere consecrated to the service of fanatical nationalism. Moreover, can Mr. Hutton be sure that his fellow-countrymen would have supported a government dedicated to the international adventure for which he pleads? As the sanctions experience demonstrated, a fine faith may falter before the immediate implications of internationalism when the crisis materializes.

Although British foreign policy is the avowed focus of the study, fully half of the book deals with the setting of post-war Continental politics. The intention, it seems, was to establish a sort of three-dimensional backdrop in which phylogenesis joins with sociological analysis to bring out the underlying forces in European life with which British statesmen must reckon. The result is not satisfying. Apart from illuminating sketches of the origins of European racial divisions and conflict and some penetrating observations on contemporary social compositions and attitudes, the reader is presented with a peripheral survey of treaty-terms and public pronouncements. These are important but readily accessible facts, and they add little value to a study which, elsewhere, is so rich in thoughtful suggestion and interpretation. The informed reader may derive profit if he supplies his own discrimination for the injudicious balance of this part of the book.

WILLIAM P. MADDOX.

Princeton University.

French Policy and Developments in Indochina. BY THOMAS E. ENNIS. (Chicago: University of Chicago Press. 1936. Pp. ix, 230.)

The Economic Position of the Chinese in the Netherlands Indies. BY W. J. CATOR. (Chicago: University of Chicago Press. 1936. Oxford: Basil Blackwell. 1936. Pp. xi, 264.)

Appearing at a time when colonial problems have again assumed a foremost place in the affairs of many governments and a vital significance in the relations between the nations and regions of the world, Professor Ennis's study of French policy in Indochina should receive the thoughtful consideration of both statesmen and scholars. To discerning men in both groups, it will suggest a method of approach and an attitude of mind that should be conducive to profitable study and sound action in this most delicate and complex field of political relationships. A wide and scholarly use of documentary sources, first-hand experience with personalities and situations in Eastern Asia, and an objective yet discerning mind have here produced a book in which information and understanding are combined to produce knowledge.

In three chapters, Professor Ennis presents the historical background of recent French policy in Indochina. Following are two chapters devoted to the development of French administration in the colony; then one on the economic aspects of Indochina, and another on the social work that the French have undertaken there; finally there is a chapter on political unrest. The primary purpose of the book seems to be to present a picture of the results that are being produced in this area by the enforced contact of two vastly different cultural systems: the French—fratriarchal, industrial, and democratic; and the Indochinese—patriarchal, agricultural, and aristocratic. To this end, the destructive effect of the French policy of assimilation upon native Indochinese institutions and character is vividly depicted. At the same time, a clear understanding is given of why assimilation was not successful. The policy of association is shown to have been productive of better results and more amicable relations between the governors and the governed. However, the conclusion is that a genuine association of the French and the Indochinese in the government of the country can be only transitory and must end in the independence of the colony from French control.

Generalizing from French, Dutch, and English experience, which is freely and profitably drawn upon throughout the study, Professor Ennis concludes that, "the West should remember that colonies cannot be 'held' forever within the vicious circle composed of armed force, large doses of assimilation, and promises of association. The evacuation of the military, under the present system of imperialism, signified white defeat. The policy of assimilation means native unrest. The acceptance of association spells eventually independence." With this conclusion the reviewer has no quarrel. Certainly it is corroborated by American-Filipino experience—which suggests that it would have been a fine thing if Professor Ennis could have added Philippine experience to his comparative material.

The chapter on political unrest traces the relationship between agitation, sedition, and rebellion in Indochina and world events and forces such as the Russo-Japanese war, the Chinese revolution of 1911, the World War, and the rise of the Soviet power. The essential political unity of the modern world has seldom been more definitely shown.

Dr. W. L. Cator's study of the economic position of the Chinese in the Netherlands Indies was issued under the auspices of the Institute of Pacific Relations. It is a thorough and scholarly monograph upon an important phase of life not only in "Insulinde" but in every non-Chinese area of the Far East. The subject is given adequate treatment in its historical, legal, ethnological, social, and economic phases. Nowhere can one obtain a better insight into the invaluable contributions that the Chinese have made to the development of the countries near their bor-

ders and into the problems that their presence has created wherever they have settled in large numbers. Written from a wide variety of Dutch sources, Dr. Cator's book is a valuable contribution to our knowledge of the important subject treated.

JOSEPH RALSTON HAYDEN.

University of Michigan.

Japan's Foreign Relations, 1542-1936. By ROY H. AKAGI. (Tokyo: The Hokuseido Press. 1937. Pp. xiv, 560.)

A survey of the foreign relations of Japan from 1542 to 1936 is no small undertaking, yet Dr. Akagi's volume is a creditable work. It is "an attempt to summarize in English and in one handy volume the main acts and scenes in the unfolding drama of Japan's foreign relations during the past four hundred years, from her first contact with Western Powers through the recent Sino-Japanese crisis." The author has fulfilled his purpose well in presenting an almost strictly factual account with little attempt at interpretation. Practically every important question of foreign policy is covered adequately, although the period before the World War receives greatest attention. The chapters on the opening of Japan, the revision of the first treaties, the Russo-Japanese War, the Washington Conference, and the immigration question are particularly well-written and give evidence of the use of a variety of source materials.

The student of Far Eastern problems will be disappointed to find a complete lack of citations of sources and of a bibliography. An indication of the use of Japanese source material particularly would add greatly to the book's worth. That Dr. Akagi has made use of non-Japanese sources is quite clear, as, for example, his reference to the attempts of the United States to negotiate for a naval coaling station on the coast of Fukien province opposite Formosa and the relation of these negotiations to the Twenty-One Demands—a fact not commonly referred to in similar works on the Far East.

In a number of instances, the author detracts from the objectivity of his writing by exaggerated statements, such as his reference to Japanese actions as "master-strokes of diplomacy" and by the constant repetition of his thesis that Japan's foreign policy has been motivated solely by her desire for security. In his discussion of Japan's adherence to the World Court statute, Dr. Akagi gives his country's "bitter experience" with arbitration as a reason for non-adherence to the "optional clause" of the statute, leading the reader to believe that Japan has not made use of arbitration because of adverse decisions.

The chapters on the Sino-Japanese crisis over Manchuria clearly set forth the official Japanese case without any attempt at criticism, and therefore are at variance with the conclusions of the Lytton Commission's report.

The above criticisms, as well as the mis-spelling of proper names, should not be allowed to minimize the value of this book as one of the few comprehensive surveys of Japan's Far Eastern relations; and the fact that it is written by a Japanese for the English-reading public makes it a noteworthy contribution.

WILLIAM C. JOHNSTONE, JR.

George Washington University.

The Undistributed Profits Tax. BY ALFRED G. BURHLER. (New York: McGraw-Hill Book Company. 1937. Pp. viii, 281.)

This is a timely book on a subject which lies very close to the heart of the taxation problem.

The author first takes the historical approach to his subject and presents an account of the earlier attempts which have been made and recommended to prevent the evasion of individual surtaxes by the re-investment of corporate earnings. He then gives a detailed account of the passage of the 1936 Revenue Act, the arguments presented at the hearings on the measure, and the provisions of the law as finally passed. He makes an original contribution in an account of foreign experience with similar legislation, particularly in Norway, which has had an undistributed profits tax with a somewhat lower and ungraduated rate since 1921.

The author presents statistical evidence to show that corporate savings (contrary to popular opinion) have not tended to increase relatively, even during the twenties. He analyzes the purposes of corporate saving. Just how much the new law will increase corporate distribution of earnings cannot be predicted with certainty. The persistent need for new capital, the control by large stockholders who still stand to gain by re-investment, and the fact that a seven per cent tax on the withholding of ten per cent of earnings only means a tax of 0.7 per cent on all corporate income, are cited as reasons for believing that considerable income will remain undistributed under the law.

Launching into the arguments for and against the new tax measure, the author concludes that it favors the large corporations at the expense of the small ones, since the latter ordinarily reinvest a larger per cent of their earnings and have greater need for new capital; that the new measure is not necessary to equalize tax burdens in favor of unincorporated business, since the latter already enjoys many tax advantages; and that the non-fiscal purposes of the tax, seeking to eliminate depressions by reducing saving and encouraging spending, are based upon exaggerated assumptions and doubtful economics.

As a strictly fiscal measure, the author holds that there are too many variables in the new law to enable one confidently to predict its financial

yield; it conforms neither to the ability-to-pay theory of taxation nor to the principle of benefits received.

A chapter is devoted to other forms of corporate taxation, and in it the author concludes that the excess-profits tax and the graduated tax on corporate income are unsound features of our present revenue system. The usual arguments are cited.

The reviewer is of the opinion that Mr. Buehler gives insufficient weight to the tax law discrimination which the new measure was designed to remedy, and that he ignores responsibility for proposing other solutions for this discrimination. Nevertheless, the book is an able presentation of the facts and of the problems involved in an exceedingly important innovation in the federal tax system.

HAROLD M. GROVES.

University of Wisconsin.

Public Utility Regulation and the So-Called Sliding Scale. BY IRVIN BUSSING. (New York: Columbia University Press. 1936. Pp. 174.)

Under the tutelage of Professor James C. Bonbright, Dr. Bussing has contributed a study of first-rate significance on an important aspect of public utility regulation, i.e., the sliding scale in price regulation. The title-page reveals that his small volume is "a study of the sliding scale as a means of encouraging and rewarding efficiency in management of regulated monopolies." The reader soon discovers, however, that the work is not propaganda or a popular appeal for the general adoption of the plan, but rather a scientific evaluation of the device based upon statistical and logical analysis of experiments in Great Britain, Canada, and the United States over a period of more than three-quarters of a century.

"Rewards for efficiency," the author declares, are not a basic part of ordinary regulatory procedure, as evidenced by the fact that "an efficient plant which charges relatively low prices is generally allowed to earn no more on its rate base than a less efficient company which charges relatively high prices." One method devised to overcome this obvious injustice is the sliding scale, which is defined as any form of regulation in which the profit allowed increases or decreases in proportion as prices decrease or increase.

The sliding scale as a regulatory device is traced from the British Isles, where it was first applied in 1855 in the gas industry, to Toronto, Canada, where it has been used in the gas industry since 1887, to Boston, where it was applied to the Consolidated Gas Company, thence to Philadelphia, Connersville, Memphis, Dallas, Houston, and finally and most significantly, to Washington, D. C. When the sliding scale went into effect in Washington, December 31, 1924, "electric prices were among the highest in the country; within eight years they were among the lowest" (p. 5).

In Chapter VIII, the author notes four significant accompaniments of the sliding scale in Washington: regular and substantial decreases in prices to consumers; relatively high level of corporate income; an increase in the number of customers; and a large increase in the volume of consumption, especially among domestic consumers. No unqualified claim is put forward that the sliding scale was primarily responsible for these desirable achievements. On the contrary, other causal factors are noted, among which are: the economic status of Washingtonians, improvement in the company's "public relations," and especially "the tireless, fair, and able supervision rendered by the public utilities commission of the District of Columbia" (p. 161).

Weaknesses underlying the sliding scale are enumerated and analyzed. Thus, it is untrue that the super-normal income (allowed by the sliding scale) is entirely earned by the stockholders who receive it; unearned excess income (traceable to external factors) is not ordinarily used (as it should be) to amortize the company's debts; no penalties are provided for sub-standard performances; and the sliding scale has failed to contribute to a solution of the "most vexatious problem in public utility regulation, that is, the problem of the valuation of the rate base, and the rate of return" (p. 167).

Although the author points out that, according to pertinent evidence, "the plan patently is imperfect," he concludes that "as its weaknesses are chiefly administrative, it will become a better method of regulation in proportion as more companies and commissions give attention to it" (p. 167).

ORREN C. HORMELL.

Bowdoin College.

The Unique Function of Education in American Democracy. BY THE EDUCATIONAL POLICIES COMMISSION, ALEXANDER J. STODDARD, CHAIRMAN. (Washington: National Education Association and Department of Superintendence. 1937. Pp. 129.)

The issuance of this well considered statement of the social obligations of education and of the means most appropriate for discharging them will not unlikely mark a capital milestone in the history of America's parent educational organization. The Commission makes a double argument: (1) in its nature and obligations, education is unique among the functions of government; (2) the proper discharge of such duties as are laid upon the public schools requires for education a measure of autonomy quite as wide as that which has historically been accorded the judiciary. This latter proposition makes the volume of special interest to students of government.

Without agreeing that education is as unique a function as the Commission attempts to prove, the reviewer thinks that the report embodies

as good a statement of this case as it is possible to make. The argument offered is not easy to summarize, but it insists, in general, that education stands apart from, above, or below all other functions of government because it is entrusted with the transmission and enlargement of the "funded wisdom and aspirations of the race" on which all else depends, and that specifically it has in greater measure than any other function the responsibility of invigorating the idea of the priority of the public interest which is at the foundation of the American way of life—a responsibility more serious today than ever before, due to the disturbing fact that the assurance of a democratic society can no longer be taken for granted.

Regarding changes in overhead control, the Commission declares that although school authorities cannot be indifferent to the demand that school affairs be handled with reference to the total financial and governmental situation in a community, they will have satisfied all reasonable demands for coördination if, as is now the case "in the best of jurisdictions," they keep themselves well-informed regarding the general state of public revenues and expenditures, give to appropriate budget-making officers and the public complete information relative to school receipts and outlays, confer with fiscal officers on the general situation, and "invite from other specially qualified persons and the public a consideration of the tentative educational budget before reaching final determinations."

Although it is submitted that the Commission's case for fiscal independence is much less than convincing, there can be little objection to the recommendation that education be set apart in administration from those branches which must respond automatically to the preferences of victors in political campaigns. The crux of the matter is: *how far apart?* Nowhere does the Commission give a specific answer. It apparently favors independent, popularly-elected school boards as the medium for public control of education. Why? Education has much to gain through being brought closer to the other functions of government, and this integration can be accomplished without stultifying any liberties which, from the record, educators seem determined to use for defending or extending American democracy.

JOHN ALBERT VIEG.

University of Chicago.

BRIEFER NOTICES

AMERICAN NATIONAL GOVERNMENT AND POLITICS

The advocates of American fascism will find much to comfort them in John E. Dalton's *Sugar; A Case Study of Government Control* (Macmillan

Co., pp. x, 311). The author, an ex-chief of the Sugar Section of the A.A.A. and a member of the faculty of the Harvard Graduate School of Business Administration, describes in an interesting way the over-production of this basic food product and the serious problems presented by the attempts at control. The Sugar Act of May 9, 1934, authorizes the Secretary of Agriculture to impose processing taxes amounting to some \$60,000,000 yearly. He regulates not only the amount of beets and cane produced in the United States, and the insular possessions, but also the processing of cane and beets, the marketing by processors and importers in the United States, and, indirectly, refining and distribution. In addition, there is a high protective tariff with slight preferential duties for Cuba, a preference which has been reduced since the book was written. Intense stimulation of the industry during the war has produced post-war ruin. A long-continued policy of high tariff protection for beet growing has given that exotic crop a strangle-hold on the politics of the Western states. The new control system has added to tariff protection a series of benefit payments to beet and cane growers, quotas and allocations between areas and individuals. The summary is devastating. The grower has been *guaranteed a profit*. The sugar bloc in the Senate has become an irresistible political force; it compelled an increase of 100,000 tons in the beet quotas as the price of passing the act of 1934. Florida cane producers (chiefly two large corporations) received over \$860,000 in one year for benefits, mostly for not producing. Benefits, however, were wiped out by the Court decision on A.A.A. American growers have waged a steady and relentless war to exclude sugar from Cuba and the dependencies. The Cuban industry, in which over \$600,000,000 of American capital is invested, has been brought to the verge of ruin. The refining industry has received only "a minimum of financial benefit." The author feels strongly that more adequate protection is due it. In order to build up this marvelous system of government-controlled production, government-controlled distribution, and tariff protection for a business that can never become independent, the American consumer is taxed two dollars per person per year! Difficult indeed would it be to frame a more searching indictment of this form of government planning than the closing words of Chapter XVI: "In all probability, the consumer will be unaware of the form of the final decision . . . It is certainly clear that if excessive protection is given, a reduction will be difficult in the welter of practical politics."—JAMES T. YOUNG.

After the deluge of partisan polemics on the New Deal, it is a relief to encounter such a volume as *Three Years of the Agricultural Adjustment Administration* (Brookings Institution, pp. xiv, 600), by Edwin G. Nourse, Joseph S. Davis, and John D. Black. The authors belong to the

school of economists who "endorse neither extreme laissez-faire nor extreme governmental control or operation." They disagree among themselves in emphasis and in detail, but this does not detract from the value of their work. They agree that the A.A.A. was hastily improvised to meet an emergency; that some parts of its program were inconsistent; that it suffered from lack of experience and administrative technique; that it aided the farmer, in cash benefits and in a general increase in farm prices; that it contributed to general economic recovery; that the greatest benefits went to the areas that had suffered most from the depression; that most of the burden was borne by the consumers; that the basic idea of "adjustment" between farm income and income of other groups was sound; and that some such continuing agency is needed to integrate agriculture with other phases of our economic life. They doubt the efficacy of crop-reduction as a permanent method of securing the desired effect, but regard it as orthodox supply-and-demand economics under the conditions existing in 1933. This book is at once sympathetic and realistic in its treatment of the farmer, the industrialist, and the consumer as members of competing, though sometimes overlapping, interest groups. By its nature, this work will not appeal to as many readers as *Gone With the Wind*, but it is a very significant study of one phase of our groping toward a peaceful adjustment of conflicting group interests and a more intelligent conservation and use of our natural resources.—ROGER V. SHUMATE.

N.R.A.: Economic Planning (Principia Press; Bloomington, Ind., pp. xiii, 596), by Charles F. Roos, is the second monograph in a series of five publications by the Cowles Commission for Research in Economics (Colorado Springs, Col.). The three remaining volumes are to be published later in the year. The author of the present volume is the director of research of the Cowles Commission, and was formerly director of research for the N.R.A. In a foreword, the N.R.A. is designated as the "most bitterly debated governmental agency in American history." The book is an attempt to reveal the fundamentals in the evolution of N.R.A. policy. Most of the chapters aim to outline the rapidly changing decisions which characterized the administration of N.R.A. A further aim, according to the author, is to provide a more searching analysis of the objectives and efforts of N.R.A. Needless to say, a great deal of inside information on N.R.A. policies is disclosed; also a great amount of statistical data, presented by means of some sixty-seven tables, nineteen charts, and extensive footnotes. The author does not hesitate to set forth his criticisms of N.R.A., many of which he formerly made in his line of duty as adviser. There are fifteen chapters in all. The first four deal with the evolution of the N.R.A. idea, the passage of the act itself, the personnel and ad-

miristraton of N.R.A., and the evolution of its various policies. The four succeeding chapters deal with labor questions, including the shorter work week, wage changes, collective bargaining, and the like. Later chapters deal with sales and price problems. A single chapter treats of fair trade practices and monopoly. Two more chapters deal, respectively, with the problem of the small business man under N.R.A. and the problem of planning for increased purchasing power. The concluding chapter presents further appraisals of N.R.A. The book is not difficult to read, the author possessing a clear style and the publishers having been liberal in presenting the contents in a very satisfactory and pleasing form; and altogether, the work is a useful contribution to the literature of the national government's greatest experiment in the regulation of commerce and industry.—EARL W. CRECRAFT.

The editors of *The Economist* (London) have set down in a very slender volume, *The New Deal; An Analysis and Appraisal* (Alfred A. Knopf, pp. ix, 149), a summary of the more important policies of the Roosevelt régime and of the economic results thereof down to the fall of 1936. The policies reviewed include the relief program, social insurance, public works, housing, N.R.A., labor unionism, agriculture, banking and currency policies, the budget, foreign trade, regulation of securities, the utility and power questions. For so summary an account, the effort is quite successful, possessing special value for the lay reader. Representing, as it does, the judgments of the editors of a journal written chiefly for British business men, the volume exhibits a quality of detachment and good temper seldom imitated on this side of the Atlantic. While the appraisals of the various policies cannot be reviewed here, the general evaluation may be indicated. "If the criterion be Utopian, the achievements of the New Deal appear to be small. Relief there has been, but little more than enough to keep the population fed, clothed, and warmed. Recovery there has been, but only to a point still well below the pre-depression level. Reform there has been, but it is slight in comparison with the reformers' blueprints. The great problems of the country are still hardly touched." If, however, the achievements are matched with those of "other governments, the former adverse judgment must be modified. If its [the New Deal's] achievements be compared with the situation which confronted it in March, 1933, it is a striking success. Mr. Roosevelt may have given the wrong answers to many of his problems. But he is at least the first President of modern America who has asked the right questions."—CHARLES MCKINLEY.

Since the entrance of the United States into the International Labor Organization, the volume of literature on the relation of this organization with federal governments has been increasing rapidly. In the United

States, there are certain questions of importance: Can the United States by treaty agreement as to labor conditions assume power over labor conditions normally reserved to the states? What limitations in the Constitution may restrict the regulation of labor by treaties? Are interstate agreements and compacts valid as to any and all labor conditions? In *Labor Treaties and Labor Compacts* (Principia Press, Bloomington, Ind., pp. vi, 136), Abraham C. Weinfeld attempts to give answers to these and other questions. While no treaty has ever been declared unconstitutional, it seems wise to the author to recognize that the treaty-making power "is limited by the bill of rights which includes the due process clause" (p. 35). "A majority of the present Supreme Court will most probably hold the due process clause of the fifth amendment to be a limitation on the treaty-making power in the field of labor relations" (p. 36). In view of the condemnation of minimum-wage restrictions at the time of writing, for instance, the author thinks that treaties in this field should not be attempted by the United States. The "agreement or compact" between states clause is examined historically, and it is concluded that states may "enter into compacts dealing with labor conditions" (p. 122). Yet the due process clauses of the Fourteenth Amendment and of the state constitutions "will undoubtedly be limitations on the power to enter into interstate compacts" (p. 124). On the whole, Mr. Weinfeld has offered a provocative and timely study of a problem that will certainly become more important if current trends in American labor policy continue.—FRANCIS G. WILSON.

The Supreme Court and Political Questions (Johns Hopkins Press, pp. 145), by Charles Gordon Post, is a realistic study of the judicial process as manifested in cases which involve what the courts have designated as "political questions." The author makes it clear in his introductory chapter that he is not concerned with abstract principles or theories, but rather with the purposes and consequences of the doctrine of which he treats. After the inadequacy of conventional explanations of political questions has been pointed out, two chapters are devoted to a classification and analysis of cases involving these matters. From this study the author endeavors to discover the reason why a court places a particular problem in the category of political questions and the consequences which result from such action. His examination of the opinions reveals the absence of any prevailing principles which lead to the decisions. On the other hand, ample evidence is presented of practical factors that may have influenced the courts to characterize particular problems as political questions and thus leave their determination to the political departments. In a chapter entitled "Political Questions as a Category of the Judicial Thought-Process," and in his final chapter, Professor Post de-

velops his thesis that practical considerations and questions of expediency have been the most important factors that have influenced the courts in placing particular problems within the field of political questions. He makes the interesting suggestion that "if as a consequence of a change of economic conditions, certain problems of government, now within the jurisdiction of the judiciary, might more effectively be settled by the political departments, . . . the court will find a useful category in the doctrine of political questions." The monograph includes an adequate bibliography, table of cases, and index. It will be of value for those who are interested in political questions and for others who are concerned with the nature of the judicial process.—ISIDOR LOEB.

In *Our Ineffective State* (Henry Holt and Co., pp. xxi, 281), William H. Hessler, of the Cincinnati *Enquirer*, presents an argument for enlarged federal powers. Upon the premise that the ineffective state is prime for conversion into dictatorship, he concludes that the government of the United States must be adapted to the need for positive action in an industrial society and must establish a new order of liberties suited to life in that society. The Supreme Court has fostered big business and expanded its own competence, but, since Marshall, has dissipated national power. Congress should, by amendment, be given jurisdiction over national economic matters, the due process clause should be redefined, and the amending procedure should be revised to permit majority rule. An obstacle to reform is the doctrine of the separation of powers. Congress should retire to the rôle of investigation, and of debating and approving or disapproving the broad proposals of the Executive. However, the celeration of legislative power to the President alone is not desirable. Coalition between Congress and the Executive is better, and one means to this end would be to permit the President once in his term to dissolve the House of Representatives. Perhaps the most interesting proposal is that the cabinet should be strengthened, making it a national planning agency, delegating subordinate legislative power to it, and giving the members seats in Congress. The book is stimulating, even to one who remains unconvinced regarding some of the suggested solutions.—W. REED WEST.

Seeking to present a rather limited aspect of our historic conflicts with the Indians, J. P. Kinney, in *A Continent Lost—A Civilization Won* (The Johns Hopkins Press, pp. 366), raises questions involving social and economic philosophy, government policy, and public administration. He presents a chronological account of our government's Indian land policies from colonial days to the days of the New Deal, showing how, after a century's vain attempt to promote individual enterprise and self-sufficiency among the Indians by means of allotting lands to individuals,

our government has now turned its attention rather to the promotion of tribal management and pride. The allotment of lands to individuals has been discontinued. The author has made a thorough examination of records pertaining to Indian land policies; but his manner of presentation could be improved. While direct quotations from treaties, acts of Congress, and administrative reports are desirable in a book of this type, it seems unnecessary to go to the extent of quoting from each annual report when recommendations are almost identical and from several treaties or statutes all intended to carry out a single policy. Much detail that might well have been referred to by general statements and footnote citations adds to the length of the book, but detracts from its value because of the monotony and lack of coherent organization.—EDWIN O. STENE.

In his study, *The Commercial Reciprocity Policy of the United States, 1774-1829* (University of Pennsylvania Press, pp. 305), Vernon G. Setser traces American commercial policy during its formative period. Experiences of the new nation in attempting to win foreign recognition and aid through commercial treaties are detailed, and the later alterations in policy resulting from the centralized control provided under the Constitution, the economic growth and greater economic independence of the nation, and the increased respect of foreign governments for the United States are portrayed. In conclusion, Setser states that the study of American commercial policy of this period reveals that "the United States has been little less selfish in forwarding the interests of its nationals than any other country."—NATHAN L. SILVERSTEIN.

Recognition that new economic, social, and political conditions, and new legislative proposals prompted by them, have stirred public interest afresh in the origins and character of the federal Constitution has led Little, Brown and Co. to issue a reprint of Charles Warren's *The Making of the Constitution* (pp. xii, 832), and similarly has influenced the Garden City Publishing Co. to bring out a new, though unrevised, edition of Chief Justice Charles Evans Hughes' *The Supreme Court of the United States, Its Foundation, Methods, and Achievements; An Interpretation* (pp. vii, 269), published originally by the Columbia University Press.

Hastily taking advantage of public interest stirred by President Roosevelt's proposals for judicial reorganization, William R. Barnes and A. W. Littlefield have compiled *The Supreme Court Issue and the Constitution* (Barnes and Noble, Inc., pp. 140). Almost half of the space is devoted to favorable and unfavorable comments on the Supreme Court proposal, by congressmen, jurists, professors, journalists, clergymen, and others; the remainder is taken up with miscellaneous lists, tabulations, and other

data more or less pertinent to the issue. There is little of value for the political scientist—unless it be some choice cartoons reproduced from leading newspapers.

Fred Taylor Wilson's *Our Constitution and Its Makers* (Fleming H. Revell Co., pp. 585) adds little to the familiar story of the framing and adoption of the Constitution. Sketches of the framers, interesting but largely uncritical, constitute the major part of the book. Of principal value is the inclusion of important documents and more or less obscure letters and speeches which illustrate the viewpoints of some of the framers.—E. S. WENGERT.

STATE AND LOCAL GOVERNMENT

Just as city planning was found to be too limited a concept and was forced to grow up into regional planning, so the concept of zoning has also been extended from urban into rural areas. Wisconsin has been a leader in the movement for rural zoning, but other states are falling into line, as shown in the mimeographed publications under review. *Problems and Suggestions in the Drafting of Rural Zoning Enabling Legislation* (pp. 67, December, 1936), and *Some Considerations in Support of the Constitutionality of Rural Zoning as a Police Power Measure* (pp. 48, December, 1936), both by Herman Walker, Jr., are *Land-Use Planning Publications* Nos. 10 and 11, respectively, of the Land Utilization Division of the Resettlement Administration. The first gives a brief summary of the development of rural zoning in the American states, an analysis of the major problems faced in drafting the necessary laws, a suggested draft of a complete act, and a series of possible alternative provisions. The second presents a summary of pertinent constitutional decisions that tend to show, by parity of reasoning, that a rural zoning statute might be sustained as a proper exercise of the police power. Both are thorough and scholarly contributions to a subject of increasing importance. Zoning in rural areas is designed primarily to prevent the agricultural development of lands unsuitable for that purpose. In effect, it would save the ignorant settler from his own folly in trying to farm on sandy or stony barrens; prevent the land speculator from making a profit by the sale of such lands to the unwary; and save the state and local governments extra expense for roads, schools, poor relief, and other services. Thus, rural zoning has objectives very different from those of urban zoning, and it raises different constitutional questions. It is interesting to note that in this field, as in urban zoning and planning, it is a bureau of the national government that is carrying on the research, publication, and educational work needed for the promotion of a new service by state and local governments.—WILLIAM ANDERSON.

Town-Administered Special Districts and the Control of Local Finance in New York (Special Report of the New York State Tax Commission, pp. xv, 175) was submitted as a doctoral thesis at Yale University by Daniel T. Selko and later published as Special Report No. 11 by the New York State Tax Commission. The monograph will prove of great value to the student of local government for its analysis of a type of local unit about which little is known. The author defines the town-administered special districts as "districts which are established by the town boards as a means of apportioning the cost of special town services to benefited taxpayers." In New York, the special districts have been used widely to provide services for suburban residential communities adjacent to cities. Services now provided by special districts include fire and police protection, water supply, sewerage and drainage, refuse collection and disposal, street lighting and paving, sidewalk and curbing construction, maintenance of parks, and operation of public docks. Dr. Selko believes that "the use of special districts appears to present no serious problem as long as they appear merely to apportion the costs of a few special services to the benefited taxpayers." His criticisms are directed against the present absence of control over the creation of special districts and over their financial operations. He believes that "the ultimate responsibility for district operations should remain with the counties, since they possess a greater degree of economic stability than the towns, but it is essential that thoroughgoing control over special district operations be exercised by some central authority." Adequate systems of accounting, auditing, budgeting, and reporting are suggested to replace the "present chaotic methods of local fiscal management."—CHARLES C. ROHLFING.

Municipal Ownership of Electric Undertakings in Virginia (Bureau of Public Administration, University of Virginia, pp. xx, 132), by Rowland A. Egger and James E. Gates, is an earnest and successful effort to appraise objectively the merits and defects of public ownership and management in Virginia. We have been deluged with so much literature written primarily to "prove something" that the Egger and Gates monograph is indeed an oasis in the burning sands of controversy. The study analyzes the operations and policies of fourteen municipally owned plants in Virginia. The authors modestly state that their purpose is to assist plant managers and municipal councils to get a bird's-eye view of themselves and to assist the plant managers in analyzing their peculiar local problems. Perhaps the first two chapters, "History and Development of Municipal Ownership in Virginia," and "Law of Municipal Ownership in Virginia," are principally of value to Virginia residents. Other chapters dealing with administrative, financial, and rate policies of the Virginia municipals provide an interesting case study and analysis of important

problems confronting municipal plants anywhere in the United States. Virginia appears to be no exception to the practice of using the municipal electric plant as a "tax-collection agency." The authors significantly point out that the "revenues from sales of the electric plant average 53.38 per cent of the total revenues of such municipalities from all sources." If these "profits" were diverted, an increase of 34.41 per cent in the municipal tax rate would be necessary. This factor has deterred the municipal plants from introducing progressive and promotional rate schedules, a practice now receiving wide acceptance by the private utilities.—CHARLES C. ROHLFING.

In *The Gasoline Tax in the United States* (Public Administration Pamphlet No. 54, 5th ed., pp. 50), Finla G. Crawford maintains the high standard of earlier editions. Among recent developments, Professor Crawford finds methods of tax collection more efficient; efforts to curb evasions and bootlegging more vigorous. Statistical data have been enlarged and brought down to date. In *Tax Limits Appraised* (Public Administration Pamphlet No. 55, pp. 40), the pros and cons of over-all tax limits are presented. The study was prepared by A. Miller Hillhouse, of the Municipal Finance Officers' Association, and Ronald B. Welch, of the National Association of Assessing Officers. In view of the movement toward tax limitation sponsored by the National Association of Real Estate Boards and the legislative proposals in various states, this study is both significant and timely. *Property Tax Reduction in California* (Bureau of Public Administration, University of California, pp. 33), by Malcolm M. Davisson, is a study of county tax relief to property owners in that state during the years 1931-36. Taxes levied upon property for county purposes rose rapidly from 1920 to 1932. In 1933, demands for tax relief culminated in a constitutional amendment requiring mandatory county school costs to be met by the state out of sources other than property. The long-run problem of a drastic over-all tax limit on county expenditures has not been settled by the adoption of the amendment. After a three-year trial period, substantial relief is still afforded county taxpayers, but increases have begun to appear.—EDWARD W. CARTER.

In spite of the fact that Texas has only six municipalities with formal merit systems, R. W. Cooper's *The Texas Municipal Civil Service* (University of Texas Bulletin, Municipal Studies, No. 8, pp. 211) is an interesting comparative survey of civil service and merit systems in general, of six Texas municipalities in particular, and of prospects in both the urban and rural fields in Texas. Mr. Cooper fails to distinguish, however, between permanence in office, under reasonable conditions, and selection and advancement by merit; using the terms "civil service" and "merit" in a somewhat interchangeable fashion. This is particularly

important since the constitution of the state of Texas specifies that "the duration of all offices not fixed by this constitution shall never exceed two years." It is surprising, therefore, that the Texas municipalities discussed have been able to advance at all in this field; and this fact explains, perhaps, why the emphasis has been placed on selection according to merit, rather than on reasonable permanence in office. Part I describes the size, cost, and compensation methods prevailing. Part II deals with personnel practices such as the personnel agency, classification and standardization, recruitment, training, in-service problems, and retirement. The concluding chapter, "Prospects," contains such suggestions for improvement as making room for the college-trained person, abolishing the practice of local preference and the constitutional limitation on tenure, the proper sphere for a state personnel agency, and numerous others of equal importance. The study represents a wholesome attempt to bring home to the people of a state the need for a trained, selective, public personnel organization.—R. L. CARLETON.

Public reporting as a means of giving public opinion a more substantial basis has received increased attention in recent years. In *Municipal Reporting in Texas* (Bureau of Research in the Social Sciences, University of Texas, pp. 98), J. T. Barton surveys the actual reporting practices of fifty representative cities in that state (just under ten per cent of the state's total). In addition to the survey of actual practices in municipal reporting, the author points out the advantages derived from such reports and proposes a program for the guidance of cities in the state. He finds that Texas cities have done little public reporting in the past. This study, however, should lead to increased activity in the future. His suggestions are applicable, not only to Texas cities, but to those of other states, and should prove of value to any city official who desires to work out a program for giving the people adequate information about the activities of their city.—CHARLES M. KNEIER.

In *Personnel Problems in Maine* (Bureau for Research in Municipal Government Publications, Bowdoin College, pp. 80), Professor Orren C. Hormell presents a timely and comprehensive proposal for the establishment in Maine of the merit system for the selection of state employees. The introductory chapter is a summary of the need for the merit system in administration, and includes a clear outline of its essential features. In the following chapter, the author describes the personnel situation in Maine, outlines the history of merit system proposals, and gives an able argument, buttressed by convincing statistics, for the establishment of the system in his state. The main section of the study consists of a well-drawn personnel bill, fully and carefully annotated, exhibiting throughout the marks of painstaking research and profound thought. The complete-

ness of the proposals leaves little to be desired. This book, while it is particularly applicable to the state of Maine, should prove of value to every person interested in the improvement of state administration. Satisfactory appendices explain various parts of the main text.—CHARLES J. ROHR.

State Law Index, No. 5, 1933-1934 (pp. 750) is the most recent biennial index to and digest of state legislation compiled by the Legislative Reference Service of the Library of Congress and published by the Government Printing Office. This is a reference series of considerable potential value for students of current legislative developments. Appearing more than three years after the enactment of most of the laws digested, however, the actual value of the volumes would seem to be greater for historical than for current studies.—EDWIN E. WITTE.

FOREIGN AND COMPARATIVE GOVERNMENT

Freedom of the press and of opinion is a burning issue in China, because of the difficulties of unification and the unpleasant international position of the country. The urgency of this problem colors and illuminates Lin Yutang's *A History of the Press and Public Opinion in China* (University of Chicago Press, 179 pp.), a brilliant, racily written survey of bureaucracy and free speech in ancient and modern China. Lin Yutang is China's leading wit—a rôle significant under inefficient censorship—as well as a litterateur and publicist. Editor of the humorous magazine sardonically entitled *The Analects*, after Confucius, he has gained a large following among students and intellectuals discontented with both the Nanking régime and its opposition of the Left. Hence, in the first half of the book, dealing with old China, he is inclined to emphasize protestant reformers and patriots eminent as individuals, rather than problems of group opinion. The second half, on modern China, treats the rise of the modern press, in part duplicating Roswell S. Britton's *The Periodical Press in China, 1800-1912* (Shanghai, 1933), but concluding with four vividly informative chapters which describe the leading magazines and newspapers, the journalistic profession, its political rôle, and government interference. The author believes that "the 'stronger' a government is, the weaker the press, and *vice versa*" (p. 114), and that China needed and needs constitutional guarantees of freedom of speech and press. The work's chief weaknesses are the lack of a bibliography and index, idiosyncrasies in the rendering of Chinese names, and occasional recklessness in applying Western terms to China. As an introductory survey based on fresh materials—untranslated texts, and the author's first-hand experience—it is valuable, and rich in the data of comparative government. A reference very convenient to anyone in-

terested in following up Mr. Lin's work is Professor Rudolf Löwenthal's "Western Literature on Chinese Journalism: A Bibliography," *Nankai Social and Economic Quarterly*, Vol. 9 (Jan., 1937), pp. 1007-1066.—PAUL M. A. LINEBARGER.

Students of politics generally, as well as those primarily interested in the vicissitudes of colonial self-government, will find in Sir Cecil Clementi's *Constitutional History of British Guiana* (London: Macmillan and Co. pp. xxii, 546) an instructive record of experience. The governmental evolution of this colony presented a complicated series of problems. There were the issues of slavery, emancipation, and its aftermath, including African and East Indian immigration; the effects of British adoption of free trade (and the consequent abolition of the colonial preference) upon the sugar industry; the rise of a commercial and professional bourgeoisie, and its political contest with the planter oligarchy; the interrelation of certain classes in the colony with dissident elements in British politics; a long-drawn-out contest over the Civil List—for control of finances has been the touchstone of British constitutional controversy in the Outer Empire as at home. Above all was the fact that British Guiana is a tropical colony, with the vast bulk of the population East Indian, colored, or Negro. Although representative institutions dated back to the period of Dutch rule, property qualifications for voting and office-holding restricted direct participation in government to a minute fraction. Under such circumstances, the rôle of the Colonial Office as arbiter became crucial, and the question arose as to whether representation of the population at large was not better attained through the appointive than the elective principle. Latterly, the elective members predominated in the government, with substantial control of colonial finances. This, the author claims, frightened capital away and inhibited the economic development of the colony. The upshot was the constitutional reaction of 1928, and the appointive now outweigh the elective members in the colonial legislature. The author writes competently, from the viewpoint of the experienced colonial administrator. His style is lucid; the essential facts are in the right places, and fully documented; the appendices (140 pages) comprise a very helpful series of documents and charts; but there is no index.—A. GORDON DEWEY.

A touch of the fashionable "psycho-biography" accounts for the title of Mr. G. T. Garratt's *The Two Mr. Gladstones* (Macmillan Co., pp. xvi, 311). "Mr. Liverpool" and "Mr. Oxford" are supposed to represent the two contradictory sides of the statesman whose career is recounted. Fortunately, Mr. Garratt does not make much play with his little jest, and has written, in modest compass, an informed, scholarly,

and interesting life of his hero. W. E. Gladstone held office so long and so often, ruling the greatest empire in the world at eighty-five and amassing a sum of prestige for that empire which even the ambivalence of Mr. Kipling's cousin has not yet quite succeeded in throwing away, that a sympathetic and contemporary interpretation of his career has a good deal of practical value today. Mr. Garratt, who has frequently stood for Parliament as a Labor candidate in rural constituencies, would, I think, avow himself a follower of Gladstone and a believer in "Gladstonian liberalism," and appears to have written the book to persuade the present generation to draw lessons from the problems of the past.—E. P. CHASE.

The political fluctuations that mark French history for so long a time after the reign of Louis XV must always fascinate the student of public opinion. Where lies the key to such apparent instability? Why did the Bourbons, regaining their throne, lose it again after a few short years? In *Ultra-Royalism and the French Restoration* (Cambridge University Press, pp. xiii, 209), Miss Nora E. Hudson has given us the results of some thorough and serviceable investigation. Instead of looking for the dynamics of opinion, however, she has tried to explain events in the light of contemporary theories. She does not seem to understand that, as usual, the theorists had very little to do with the actual shaping of events. Her narrative is often obscure, perhaps partly because the doctrines that she expounds are themselves vague and variable, but mainly because her own thought does not find logical expression. There is a lack of perspective. It must also be said that violation of the elementary rules of grammar makes it necessary at times to puzzle over a sentence in order to get its meaning. The index is confined to proper names.—E. M. SART.

A Source Book on European Governments (D. Van Nostrand Co.) presents under a single cover 122 pages of documents and other selected readings on the government of Switzerland, edited by William E. Rappard, 177 pages on France by Walter R. Sharp, 113 pages on Italy by Herbert W. Schneider, 202 pages on Germany by James K. Pollock, and 186 pages on the U.S.S.R. by Samuel N. Harper. In general, the materials are intelligently selected, accurately translated, and given with sufficient fullness to preserve their full value for serious students. In the cases of Italy, Germany, and the U.S.S.R., space is devoted exclusively to materials pertaining to the newer dictatorial régimes. The book might deservedly be at the elbow of every teacher and student of contemporary European government. It would, however, lend itself more conveniently to citation if paged continuously throughout.—F. A. O.

INTERNATIONAL LAW AND RELATIONS

Dr. Heinrich Rogge's *Kollektivsicherheit, Bündispolitik, Völkerbund* (Berlin: Junker und Dünhaupt Verlag, pp. ix, 445) is interesting to the American reader because it is an elaborate discussion of the problem of security from the Nazi standpoint. He defines security as "peace and liberty from the point of view of self-defense" (p. 260). In the civilized world, it takes a legal form and falls in the province of international law. However, all law being but an instrument, it is necessary to consider those who use it and the adequacy of the means they use. The users are states whose capacity to act depends on their ability, readiness, and will to defend themselves. Of all the means—and Dr. Rogge discusses many—a policy of understanding (*Verständigungspolitik*) is best and finds its legal expression in treaties, particularly non-aggression pacts with neighboring states. If a treaty is going to be binding, certain conditions will have to be met. Among these are that the parties must be on a plane of equality, that each party shall truly respect the honor of the other, and that the treaty be clear, truthful, and honorable. Sanctions are a denial of honor and cannot replace moral disarmament. For each individual state, therefore, security means meeting the needs of self-defense and pursuing a policy of understanding with its neighbors in the form of non-aggression pacts. On a wider scale, a policy of neutrality is the best guarantee of collective security whose substructure is the principle of non-aggression. This is, very briefly, the substance of Dr. Rogge's argument. The book is a surprising mixture of high-flown idealism, technical discussions of a mass of legal concepts refined into multitudinous Germanic distinctions, wholehearted endorsement of political and military power, critical examination of contemporary diplomatic history, and condemnation of rationalism and the impotence of the academic mind. While interesting, Dr. Rogge's argument is not at all convincing, in view of his failure to analyze those objectives of Hitler which conflict with the neighboring states. One wonders what non-aggression means in the face of avowed Nazi designs on the Polish Corridor, Memel, and Austria. Likewise, the "neutrality" of Hitler in the Spanish civil war makes the whole concept of neutrality suspect and does not enhance the national honor supposedly behind his adherence to the non-intervention pact.—RENÉ DE VISMÉ WILLIAMSON.

It has often been asserted that Great Britain, in her expansion in Africa, pursued a definite and consistent Cape to Cairo policy. This assertion receives thorough examination in Lois A. C. Raphael's *The Cape to Cairo Dream* (Columbia University Press, pp. 514). Since for most Britishers who succumbed to it, the dream took the form of plans to span the continent from Egypt to Cape Town by rail and telegraph, the

author has traced the development of the projects and schemes related to these plans. Dr. Raphael finds that the phrase "from Cape to Cairo" undoubtedly held a fascination for large numbers of Britishers. The idea was sponsored also by influential business groups, and even found considerable support in Parliament. It certainly exercised a real influence over the activities of leaders of British imperialism in Africa like Sir John Kirk, Sir Harry Johnston, Captain Lugard, Kitchener, and Rhodes. But the author concludes that the British government did not follow a Cape to Cairo policy. Lord Salisbury twice definitely allowed Germany to block the possibility of an all-British route from the Cape to Cairo. Lord Rosebery's cabinet gave support to the scheme in the Anglo-Congolese Agreement of 1894; but when France and Germany protested the arrangement, the government speedily withdrew the offending article. Though the British government cannot be accused of following a definite Cape to Cairo policy, the fear that it was following such a policy, or might even achieve an all-British transcontinental route without a definite policy, played an important rôle in the policies of the other powers participating in the general scramble for Africa. The development of the story of the influence of this idea on British policy required the bringing together of a large number of more or less related movements, schemes, and diplomatic controversies, each deserving of more extended treatment than could be given them in this study. However, the author has succeeded without sacrifice to standards of scholarship, in linking them all in an interesting and rapidly flowing narrative within the compass of a single volume.—AMRY VANDENBOSCH.

For several decades, certainly since the "British transfer to Canada of the responsibility of conducting its own foreign relations within the scope of jurisdiction defined" in the Boundary Waters Treaty of 1909 and the subsequent creation of a Canadian Department of External Affairs, there has been a distinct need for a work such as James Morton Callahan's *American Foreign Policy in Canadian Relations* (Macmillan Co., pp. x, 576). Professor Callahan has gone straight to original sources, chiefly the diplomatic archives at Washington, Ottawa, and London, and has set forth objectively what he has found. He has also used, with fine discrimination, private diaries, letters, and papers, records of public debate, and monographic materials. He has brought to the subject a mature scholarship previously demonstrated in his work on Mexican-American relations. The result is a straightforward narrative and analysis of Canadian-American relations during the period 1774-1936, with sufficient reference to British non-Canadian and Spanish, French, and Russian policy in America to give the subject its proper setting. Familiar topics are illumined by newly gleaned incident and detail, and

the whole is distinguished by a clear, compact style and by accurate use of technical terminology. The author is chary with his own opinion; the record speaks for itself. The book reveals, for example, that increasingly during a hundred and fifty years, Great Britain had become a hostage to Canada in British-American relations. The recent acquisition of Canadian autonomy in foreign affairs relieved Great Britain of that relationship. The record also suggests that, with blustering, aggressive frontier days gone and nascent nationhood turned into matured international responsibility on both sides of the line, future Canadian-American relations ought to have smoother sailing.—HENRY REIFF.

In a sense, *La Crise Bosniaque (1908-1909) et les Puissances Européennes* (Alfred Costes, pp. 418, 412), by Momtchilo Nintchitch, a former foreign minister of Yugoslavia, covers well-worked ground. For nearly twenty years, historians and publicists in Europe and America have been discussing this episode in connection with the causes of the World War, and during this time they have produced a vast literature dealing with the subject. The distinctive feature of the present two stout volumes is that they shift attention from the war-guilt question to one of the important crises connected with the problem. The author of the work defines his task broadly. In order to put the episode with which he is dealing in its proper perspective, he surveys the history of the Balkan peninsula from before the Congress of Berlin until Serbia and the Powers returned to something like a normal status, and he discusses the attitude and actions not alone of Serbia and Austria-Hungary but of all the Great Powers toward the Southern Slav question. This view of his subject imposed on the author the difficult task of studying the vast literature bearing on the causes of the World War. This duty he has performed with fidelity. His footnotes reveal a painstaking study of the usual French, British, German, Russian, and Austro-Hungarian primary printed sources and, in addition, use of less familiar Serbian printed and archival material. The result is a detailed and interesting study of the Southern Slav question. Students of history will long turn to these volumes for informed interpretations of the policies of responsible political and diplomatic figures and information about events and personalities connected with the Bosnian crisis of 1908 and 1909. The specialists may not accept all the conclusions presented, but they will be forced to recognize that the author has written calmly, intelligently, and informatively on a significant episode in the history of his country and of his fellow Slavs.—C. P. HIGBY.

Dr. Nathan Feinberg, professor at the Hague Academy of International Law and member of the Palestine Bar, has collected several of his articles published between 1928 and 1936 into a little volume en-

titled *Some Problems of the Palestine Mandate* (published by the author, pp. 125). In all, there are nine papers, devoted in large part to legal questions raised by the Zionist effort to establish a Jewish National Home in Palestine. The first three concern the manner in which the Jewish problem was dealt with at the Paris Peace Conference. Dr. Feinberg points out that Feisal excluded Palestine from the area demanded by the Arab national movement. In other papers are discussed such matters as the Palestine Legislative Council. Much as one may sympathize with the aims of the Zionist movement, it is difficult to believe that the cause of reconciliation between Jew and Arab is going to be advanced by legalistic arguments. That cause requires the exercise of the greatest political tact, and its consummation will entail far-reaching social, economic, and cultural readjustments. Dr. Feinberg is, of course, aware of all this. Within the narrow scope which he has set himself—the legal basis of the Palestine Mandate—he has made a sound contribution to our understanding.—ROBERT GALE WOOLBERT.

POLITICAL THEORY AND MISCELLANEOUS

America's Heritage from John Stuart Mill (Columbia University Press, pp. 203), by George Morlan, exaggerates Mill's influence on American thought. But this is not important, for history is not the aim of Mr. Morlan's book. The aim is to present the essential ideas of Mill's political, economic, and social philosophy; to see whether or not these ideas apply to America at the present time; and to evaluate these ideas. In brief, Mr. Morlan takes stock of nineteenth-century liberalism as it was expounded in its classical form. He gives an able presentation of Mill's views, even though his method is somewhat reminiscent of a Ph.D. thesis. He shows that economic liberalism is inadequate to explain the American economy, and that the growth of corporate industry and the divorce of ownership from control have rendered laissez-faire and free competition inoperative in a vast part of our economic system. He finds that Mill's views on education—the need of teaching men to think and the necessity of freedom of thought—the value Mill attaches to democracy, his view of the legislator, and his view of the relation of the expert to government, are the most pertinent things in his thought for us today. In his final chapter, "Reconstruction," the author reveals both his weak and his most interesting side. This chapter does not show as deep an understanding of economic and political theory as might be desired. Extreme unction has not yet been administered to competition, nor have all the funeral arrangements been made for laissez-faire. Mr. Morlan criticizes Mill's atomistic theory of society with an "interaction theory," which tends to leave out of account that which interacts—human nature. Mr. Morlan's criticism would have been more convincing

here had he laid a stronger emphasis on man's social nature as such, and had he conceived of society less as an interaction than as a system of relationships. These criticisms, however, are minor. Mr. Morlan's examination of the capitalistic assumptions of private property is well done. And it is refreshing to find a writer who contends that planning does not demand an all-wise dictator, a view which is widely held by economists, and which is largely a substitute for imagination. Apart from the summary of Mill's views, the virtue of this book is that it deals with ideas critically.—BENJAMIN E. LIPPINCOTT.

In the "Modern Sociologists" series, J. A. Hobson presents *Veblen* (John Wiley and Sons, Inc., pp. 227) in a brilliant critical and interpretative essay. Along with Dorfman's work on Veblen, upon which Mr. Hobson has drawn quite as freely as he suggests, this little volume should again attract thoughtful attention to Veblen's impressive analyses of social phenomena. It is one of the ironies of American intellectual life that the services of this American, "one of the most brilliant, independent, and penetrative minds of our age," should be so small a part of the cultural heritage of his own people. Even his alma mater has left him unheralded beyond a bachelor's degree, and no memorial graces the campus to which his greatness brings a continuing distinction. Political scientists will find in Chapter VII a summary statement of Veblen's significance to the field of politics. Special attention is given to the implications of his works on *The Theory of the Leisure Class* and *The Nature of Peace*, the latter a critique so suggestive as to the nature of the problem and so prophetic of what has come to pass that one is tempted to amend the old saying, "A prophet is not without honor save in his own country," by adding "and in his own time." Perhaps Mr. Hobson's essay will stimulate revived attention to some of the keenest social analysis in American scholarship, a result that could hardly be expected had Veblen been presented by one less detached from the loyalties and antagonisms of the intellectual controversies which he evoked while living. Mention may be made also of Chapter VIII on "Personal Prestige" in which Veblen's insatiable curiosity and interpretative originality are viewed as they deal with the less organized social habits and activities in which man's predatory spirit finds expression. These modes of expression are not without their political significance, particularly for programs of reform and for the field of public opinion.—RUSSELL M. STORY.

Modern Individualism (Harper and Brothers, pp. ix, 174), by S. McKee Rosen, described in the preface as "an analysis of development—the development of modern individualism and its present crisis"—in large part is a summary of a number of political theories in the West since the

Protestant Reformation, including largely those of English thinkers and writers from the seventeenth century to the present. The method, in the main, is to present—clearly, rather convincingly, without pretense of high originality—some scores of exponents, one after another (J. S. Mill and T. H. Green, to mention only the two who are each given a chapter), setting out the essentials of each contribution, and with a measure of comment on related social trends. The chapter on “Coal and Political Theory,” together with the concluding chapter, weaves into the account some of the more significant actual political and economic controversies in recent Britain, illustrating perhaps that “the task of individualism is one of reconciling its position with the need for collective opportunity and security, conditions which can only be obtained through planned social action.” The post-medieval individualism is seen to be fairly done for, yet through a drastic reconstruction it may be possible to retain its core as the only alternative to any of the forms of totalitarianism that would submerge human personality. The right direction would appear in the current socio-biological thought, which is “in striking contrast to that of a traditional individualistic social science” (p. 153). Among the later theoretical contributions commented upon, the reviewer would have been interested in a more thorough consideration of the consistency of Harold Laski’s most recent books with his *Grammar of Politics*, to which most of the commentary on Laski is directed. For students, however, desiring a concise, readable, reliable guide through a wide segment of modern and recent political thought, rather than a self-supporting analysis of modern individualism, Professor Rosen’s little book will be useful.—WALTER SANDELIUS.

In times of crisis, men seldom seek guidance from history. More frequently, a course of action is determined upon without reference to historical precedent, and the past is then so read as to justify the present. That the French revolutionaries were no exception is the conclusion from Harold T. Parker’s *The Cult of Antiquity and the French Revolutionaries* (University of Chicago Press, pp. ix, 215). The *collège* of the eighteenth century, in whatever part of France it might be located, emphasized in its curriculum a certain restricted segment of the classics, in which Cicero and Sallust, Livy and Tacitus, loomed large; and to these *collèges* went Robespierre, Desmoulins, Danton, Condorcet, and a host of other soon-to-be-revolutionary figures. What they learned there, if it did not inspire revolutionary thoughts, at least showed them a world in which men of humble birth might rise to the highest offices of state; and when forces other than intellectual set off the spark, it was to the classics, especially to Cicero and Plutarch, that they appealed to prove the rightness of their course. In an idealized picture of the civil strife of Rome

they found sufficient precedent, and in the glorified heroes of Plutarch they saw prototypes of themselves, though the Brutuses of the Gironde became the Phocions of the Terror. In tracing the impact of the classics on the revolutionary spirit, from the first half-formulated nostalgia of intellectuals facing a society in which material success was the reward, not of talent but of birth, to the anti-classical Thermidorian reaction, Mr. Parker not alone has given us a study in the transmutation of political ideas, but has expounded also a philosophy of history. If the latter has already been made familiar by Professor Becker, it is one which bears repeating, especially as long as it continues to be done with both scholarship and readability.—CHARLES M. WILTSE.

Dr. Helmuth Plessner, of the University of Gröningen, has written a thoughtful essay on the cultural-historical background of contemporary German ideology. The purpose of this book, *Das Schicksal deutschen Geistes im Ausgang seiner bürgerlichen Epoche* (Max Niehans Verlag, pp. 190) is not to justify or condemn the doctrines which today lend a semblance of dignity to the National Socialist system, but to explain their origin. Germany's hostility toward European values cannot be accounted for, the author says, by reference merely to Versailles. The protest against Versailles, arising from Germany's frustrated desire for national unity, was a protest against a European culture in which Germany did not share. For, torn by religious difference and the conflicting traditions of Berlin and Vienna, Germany was not vitally influenced by the political humanism of the Age of Reason, nor could she develop a state-concept of the English and French type. In such facts Plessner finds the origin of German political romanticism, of the German conception of *Volk*, and of the current anti-intellectualism.—JOHN D. LEWIS.

The March, 1937, number of *The Annals of the American Academy of Political and Social Science* is devoted to "Current Developments in Housing." Most of the articles deal only indirectly with problems of immediate interest to political scientists, but they do provide a valuable background for the understanding of the governmental aspect of the question. While there is a certain amount of repetition and some rather obvious generalizing, altogether the collection may be considered valuable. Five articles devote themselves especially to housing as a problem of government. These, in combination with three articles on the handling of housing by European countries, an article entitled "Urban Housing Activities of the Federal Government," and the bibliography which concludes the series, should be of special interest to political scientists. Opponents of a public housing program would doubtless criticize the entire volume as too largely the work of those who support vigorous activity on the part of government. It is true that most of the contributors

are now serving or have served in various capacities with public agencies. Despite divergent points of view, there seems to be general agreement that the government should undertake to provide housing only for those who cannot otherwise adequately provide such for themselves. Most of the authors would place the maximum public portion of the field as something like one-third. It is interesting to note that there is almost unanimous sentiment for state and municipal control of public housing projects as against federal control. Federal aid is needed in financing, research, and the setting up of a few basic requirements which will insure at least minimum state and local standards. Otherwise, the problem should be left to the states and cities, although the exact relationship of the two in the matter presents difficulties and must yet be worked out.—HAROLD ZINK.

Principles of Labor Legislation (Harper and Brothers, pp. 596), by John R. Commons and John B. Andrews, is the fourth revised edition of a book that has become a classic in its field. It is not only an indispensable class-room text, but also a most useful reference book for the general reader. Nearly every type of labor legislation that has been put into effect in the United States, and much that has been tested out in other countries, will be found described concisely in this excellent compendium. The book is revised as of September, 1936; and the authors cannot be reproached for failing to prophesy the subsequent actions of the courts. The book is, of course, not without its faults. One of these is an attitude toward the labor of women which seems to the present reviewer to be founded upon tradition and legend rather than observation. Another is the lack of a philosophical approach. Indeed, despite its title, the volume deals largely with facts and descriptions. The last chapter and a few other passages deal with principles, but it cannot be said that the book as a whole does much more than summarize the law and practice in various fields. This alone, however, must be recognized as a notable achievement; and in any case it is only fair to insist that the virtues of the volume far outweigh its shortcomings. Although the book will be found valuable by every social scientist, it should also be read widely by the intelligent general public. Its style is easy and clear, most of its legal passages are made as simple as the subject permits, and altogether it is to be recommended most highly to everyone interested in any aspect of the labor problem—which means, or should mean, every thinking man and woman.—MIRIAM E. OATMAN.

Sickness and Insurance (University of Chicago Press, pp. vi, 166), by Harry A. Millis, chairman of the department of economics at the University of Chicago, is the second book favorable to compulsory health insurance within a few months. Not as comprehensive as Dr. I. S. Falk's

Security Against Sickness, it has the merits of clarity, conciseness, and fairness. It presents all essential facts on the need for health insurance in the United States, the experience of foreign countries with this institution, and the movement for health insurance in this country. It concludes with the author's own program for action, which is likely to draw fire from both sides but merits serious consideration as representing the conclusions of an able and unprejudiced scholar with a strong sense for the practical. The book is intended for the lay reader much more than the specialist. It does not embody the results of any original research and does not pretend to be the last word on the subject. It is, however, an excellent treatment of a very controversial problem which may soon become a major issue in politics. It is recommended to everyone who wants to get all the essential facts about health insurance with a minimum of effort and with assurance that he is getting facts and not propaganda.—EDWIN E. WITTE.

The review of Spanish developments since the Napoleonic wars contained in Pierre Crabitès' *Unhappy Spain* (Louisiana State University Press, pp. 244), leaves the author with no enthusiasm for the country or its people. The shortcomings of the government are explained by the breakdown of the traditional religious background, by the development of Masonic lodges of the French type, and by the resulting decline of respect for authority. The incompetence and misfortunes of the ruling dynasty are detailed at length. Hardly less baneful the author finds to be the influence of the various political leaders whom the sovereigns called to their aid. Among those prominent in Spanish affairs in the nineteenth century, only Queen Maria Christina, herself an Austrian by birth, stands out in favorable contrast. The economic limitations of the kingdom, the backward policy in landholding, the bad tax legislation, and the failure to support a system of modern education receive almost no attention. The loss of the colonies, the author thinks, was brought about primarily by the outbreak of yellow fever in the United States, which, threatening the safety of the Southern states, forced that country to adopt for its self-preservation a forward policy against Spain in Cuba. The future, the author believes, offers little hope for Spain because "its soul is atrophied." The country, he says, must "gravitate for many a long year between stagnation and revolution," because its people have still to learn the elements of the science of government.—CHESTER LLOYD JONES.

Mr. Henry David's *The History of the Haymarket Affair* (Farrar and Rinehart, pp. xxi, 579) is a careful, scholarly, amply documented, icy-cold presentation. The study may be divided into two parts. The first consists of a most painstaking account of radical movements before the

Haymarket affair; the second deals with the Haymarket affair and its aftermath. Almost half of the first part might well have been omitted. It reads like a doctoral dissertation—though this is not said in derogation of the work. It is not impartial to the point of being lifeless—how could any account of the Haymarket riot be lifeless?—but one is struck by the painful objectivity of the writer. It is not easy for a person delving into this insanely emotional episode of American history to keep his own balance even though half a century has intervened. It is all a grim tragedy which any author might readily over-dramatize. At the risk of wearing down his reader with endless citation of documents and newspaper comment, Mr. David plods on his way. Nothing seems to have been left unexamined and no dark corner has been left unentered. What the accused plotters ate before the evening of the riot is by some oversight omitted! Yet one cannot deny that the Haymarket affair has been done with precision and thoroughness. And Mr. David has done it.—JEROME G. KERWIN.

The well-known *China Year Book*, edited by H. G. W. Woodhead and published at Shanghai by the *North-China Daily News and Herald*, now has a healthy rival in the *Chinese Year Book*, edited by Chao-ying Shih and Chi-hsien Chang and published, also at Shanghai, by the Commercial Press. The second issue of the younger publication (pp. 1596) is for the year 1936-37, and the plan calls for a new edition at the close of each calendar year. Chapters in the older work appear anonymously, and are written partly by Europeans and partly by Chinese. With one or two slight exceptions, all of those appearing in the newer publication are signed and by Chinese authors. The range is extremely wide, and the thoroughness with which most topics are treated is indicated by the fact that electrical communications, for example, receives 43 pages, foreign trade 44, railways 47, education 73, and public finance 230. A very large proportion of the chapters have been prepared by government officials, an arrangement which tends to assure sufficiency of information but also opens possibilities for conscious or unconscious coloring in favor of the existing Nationalist régime.—F. A. O.

It is Oskar Morgenstern's thesis, in his *The Limits of Economics* (William Hodge and Co., Ltd., pp. 160), that economic theory is a science; that it should be kept free from value judgments on social policy; that it is not to be associated with any "rigidity" such as "Liberalism" or "Socialism"; that "it should be one of the first duties of the economist to defend the thesis that economic theory is independent of systems of economic policy;" that true economic theory gives "expression to immutable fundamentals;" in fact, that "hardly any other science—not even mathematical physics—is as esoteric, as exclusive, as economic

theory;" and that therefore *the* great danger to economic theory lies in the "economic sophistry, half-truths, or at best platitudes," voiced by amateur economists and believed by laymen. These priestly presuppositions lead Herr Morgenstern cavalierly to boot Marxism outside economic theory; to look upon American economic policies since 1933 as a species of "madness," "senseless and full of contradictions;" to declare that "all forms of state organization are compatible with all types of measures of economic policy" (apart from communism). Looking upon economic theory as a science of abstractions like mathematics, Herr Morgenstern proves almost too much as to its limits.—HARVEY PINNEY.

Long-Term Debts in the United States, Domestic Commerce Series, Number 96 (Government Printing Office, pp. vi, 211), by Donald C. Horton with the aid of associates in the Department of Commerce, contains three chapters on public debts and six on private debts, with statistical summaries as of the end of 1912, 1922, 1930, and 1935. Considerable attention is given to the changes in debt structure during the depression years. One of the appendices is a tabular digest of state mortgage-moratorium and related debt-relief laws "enacted during the period 1930-36, and not subsequently held unconstitutional." The work attempts to fill gaps in the statistical information revealed by other studies, and to carry forward the research program of other agencies, particularly the Twentieth Century Fund Study on *The Internal Debts of the United States*, edited by Evans Clark (1933). It is a useful debt reference for students of public and private finance.—H. C. NIXON.

The tenth anniversary volume of proceedings of Emory University's Institute of Citizenship is entitled *Current Economic and Political Problems* (Bulletin of Emory University, Vol. XXII, March, 1937, pp. 95). The range and variety of subjects in this volume are comparable to its scholarly predecessors. Topics of general interest are divided equally among American foreign relations, social security, the instruments of public opinion in the 1936 campaign, and President Roosevelt's plan to reorganize the Federal judiciary. There are ample discussions of the problems of the day in the South, with concentration upon farm tenancy, city management, county finance, and reorganizing chaotic county governments. In an introductory historical sketch of the Institute's first decade, tribute is paid to the indefatigable efforts of its director, Dr. Cullen B. Gosnell.—FRANK W. PRESCOTT.

An Outline of Political Science (Barnes and Noble, Inc., pp. 232), by Gertrude Ann Jacobsen and Miriam H. Lipman, is a volume in the College Outline Series. It is well organized, concisely written, and as accurate as such a brief treatment of so vast a subject could well be.

It should help the student organize his knowledge and clarify his concepts of government and society; hence the authors may reasonably feel that they have accomplished their purpose. Nevertheless, a work of this nature inevitably possesses the defects of its virtues. Its telegraphic brevity necessitates definition where satisfactory definition is impossible and generalization where generalization is misleading. It touches upon almost every conceivable problem and institution of government, but treats none adequately.—ROGER V. SHUMATE.

A short treatise in English by Kimio Hayashi under the title of *The Fundamental Idea of State Socialism* (Tokyo: Maruzen Company, pp. 31) outlines the doctrine of the totalitarian state as envisaged by fascist elements in Japan. The author is a former legal adviser to the Furukawa Copper Mining Company, and since 1924 has been a professor of political science in Waseda University. As in numerous Japanese political treatises, more attention is given to Western doctrine than to Japanese.—KENNETH COLEGROVE.

RECENT PUBLICATIONS OF POLITICAL INTEREST BOOKS AND PERIODICALS

CHARLES S. HYNEMAN
University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

Books

- Angell, Ernest.* Supreme court primer. Pp. 157. N. Y.: Reynal and Hitchcock. 1937.
- Arnett, Alex M.* Claude Kitchin and the Wilson war policies. Pp. 353. Boston: Little, Brown. 1937.
- Barnes, William R., and Littlefield, A. W., eds.* The supreme court issue and the constitution. Pp. 149. N. Y.: Barnes & Noble. 1937.
- Bestor, Arthur E., and Others.* Some proposed changes in the American presidency. Pp. 36. N. Y.: Am. Book Co. 1937.
- Carleton, R. L.* The reorganization and consolidation of state administration in Louisiana. Pp. 270. Baton Rouge (La.): La. State Univ. 1937.
- Cochran, Howe P.* Scientific tax reduction. Pp. 772. N. Y.: Funk & Wagnalls. 1937.
- Cohen, Myer, ed.* Selected supreme court decisions. Pp. 330. N. Y.: Harper. 1937.
- Combs, William H., and Others.* Constitutional problems of Tennessee. Pp. 115. (Univ. of Tennessee Record: Extension Series, vol. 13, no. 2). Knoxville (Tenn.): Univ. of Tenn. 1937.
- Coudert, F. R.* The new deal and the United States supreme court. Pp. 57. N. Y.: Oxford. 1936.
- Davis, Herbert L.* Insurance and banking examinations and accounting. Pp. 227. Boston: Christopher. 1937.
- Dumond, Dwight L.* Roosevelt to Roosevelt; the United States in the twentieth century. Pp. 594. N. Y.: Holt. 1937.
- Evans, John F., and Others.* The unjust enrichment tax. Pp. 26. N. Y.: Am. Management Assoc. 1937.
- Foster, William Z.* What means a strike in steel? Pp. 63. N. Y.: Workers Lib. Pubs. 1937.
- Frank, Glenn, and Others.* Is national planning inevitable? Pp. 31. N. Y.: Am. Book Co. 1937.
- Franck, Louis R.* L'expérience Roosevelt. Pp. 388. Paris: F. Alcan.
- Fraser, Gladys Geneva.* The licensing of boarding homes, maternity homes, and child welfare agencies. Pp. 116. Chicago: Univ. of Chicago Press. 1937.
- Gerstenberg, Charles W.* American constitutional law. Pp. 436. N. Y.: Prentice-Hall. 1937.
- Gerstenberg, Charles W.* American constitutional law; text and leading cases. Pp. 755. N. Y.: Prentice-Hall. 1937.
- Hall, Ferguson.* Iowa workmen's compensation law. Pp. 332. Shenandoah (Ia.): World Pub. Co. 1936.
- Hamilton, Walton Hale, and Adair, Douglass.* The power to govern; the constitution—then and now. Pp. 254. N. Y.: Norton. 1937.
- Hardy, Jack.* The first American revolution. Pp. 160. N. Y.: Int. Pubs. 1937.
- Harrison, L. V., and Laine, Elizabeth.* After repeal. N. Y.: Harper.

Hicks, John Donald. The federal union; a history of the United States to 1865. Pp. 750. Boston: Houghton. 1937.

Hurt, Elsey. California state government. Pp. 262. Sacramento (Calif.): Supervisor of Documents. 1937.

Johnson, Glenn H. Relief and health problems of a selected group of non-family men. Pp. 94. Chicago: Univ. of Chicago Press. 1937.

Kendrick, M. Slade, and Seaver, Charles H. Taxes, benefit, and burden. Pp. 190. N. Y.: Newson. 1937.

Keun, Odette. A foreigner looks at the TVA. Pp. 95. N. Y.: Longmans. 1937.

Lawrence, David. Supreme court or political puppets? Pp. 73. N. Y.: Appleton-Century. 1937.

Lewinson, Joseph L. Limiting judicial review. Pp. 100. Los Angeles (Calif.): Parker, Stone & Baird. 1937.

Lippmann, Walter. The supreme court, independent or controlled? Pp. 56. N. Y.: Harper. 1937.

Loucks, Emerson H. The Ku Klux Klan in Pennsylvania; a study in nativism. Pp. 221. Harrisburg (Pa.): Telegraph Press. 1936.

McCain, William D. The United States and the republic of Panama. Pp. 293. Durham (N. C.): Duke Univ. Press. 1937.

McAdoo, Eleanor Wilson, and Gaffey, Margaret Y. The Woodrow Wilsons. Pp. 311. N. Y.: Macmillan. 1937.

Murray, William H. Rights of Americans under the constitution of the federal republic; for laymen, students, and lawyers. Pp. 158. Boston: Meador. 1937.

Norcross, Carl. Lump-sum settlements in workmen's compensation. Pp. 126. N. Y.: Rehabilitation Clinic. 1936.

Patterson, Caleb P. The supreme court and the constitution. Pp. 45 (Arnold Foundation Studies). Dallas (Tex.): Southern Methodist Univ. 1936.

Pennsylvania Federation for the Merit System. A merit system for Pennsylvania. Pp. 117. Phila.: Pa. Fed. for the Merit System. 1937.

Public utility and the rate problem. Pp. 34. N. Y.: Recording & Statistical Corp. 1936.

Randall, James G. The civil war and reconstruction. Pp. 976. Boston: Heath. 1937.

Rowlands, D. T., and Woodbury, Coleman. Current developments in housing. Pp. 285 (Annals of American Academy of Political and Social Science. Mar., 1937). Phila.: Am. Acad. Pol. & Soc. Sci.

Sher, I. Herman. The new corporation income tax. Pp. 60. N. Y.: Simon & Schuster. 1936.

Sikes, Pressly S. The state government of Indiana. Pp. 132. Bloomington (Ind.): Principia Press. 1937.

Staub, Walter A., and Others. Effects of social security and undistributed earnings taxes on corporate policy trends. Pp. 32. N. Y.: Am. Management Assoc. 1937.

Stephan, A. Stephen, and Rathert, A. R. A merit system for Minnesota. Pp. 63. St. Paul (Minn.): Minn. Dept. of Educ., 1937.

Stewart, Frank M., and Clark, Joseph L. The constitution and government of Texas. Pp. 272. Boston: Heath. 1936.

Toulmin, Harry A. Trade agreements and anti-trust laws. Pp. 540. Cincinnati: W. H. Anderson. 1937.

Twentieth Century Fund. Facing the tax problem. Pp. 629. N. Y.: Twentieth Century Fund. 1937.

Vasile Vasiliu. La politique financière du gouvernement fédéral américain pendant la dépression. Pp. 59. Paris: Libr. Gén. Droit et Juris.

Walker, Harvey. Public administration in the United States. Pp. 698. N. Y.: Farrar & Rinehart. 1937.

Warfield, Ethelbert D. The constitution as a continuing principle in government. Pp. 25. Williamsburg (Va.): William and Mary College. 1936.

Watkins, Myron W. Oil: stabilization or conservation? Pp. 280. N. Y.: Harper. 1937.

Welch, Francis X., ed. Cases on public utility regulation. Pp. 927. Wash.: Pub. Util. Reports. 1937.

Williams, Aubrey W., and *Others.* How far should federal relief go? Pp. 31. N. Y.: Am. Book Co. 1937.

Articles

Administration. Services of the national bureau of standards to governmental purchasing agencies. *Va. Municipal Rev.* Feb., 1937.

———. Another job for Hercules. *G. W. Lineweaver.* Pub. Util. Fort. Mar. 18, 1937.

———. Services of the national bureau of standards to governmental agencies. *R. A. Martino.* Tex. Municipalities. Mar., 1937.

———. The Pennsylvania state authority act. *R. L. T. Univ. of Pa. Law Rev.* Mar., 1937.

———. The committee as an instrument of coördination in the new deal. *Mary C. Trickett.* Am. Pol. Sci. Rev. Apr. 1937.

———. The United States coast and geodetic survey and the property owner. *Philip Kissam.* Scientific Mo. Apr., 1937.

———. Personnel. Careers in government. *Leonard D. White.* Scribner's. Mar., 1937.

———. Pre-entry training of officials. *R. Didisheim.* Local Govt. Admin. Mar., 1937.

———. A critique of federal personnel policies as applied to the professional social science positions. *William E. Mosher.* New opportunities for economists and statisticians in federal employment. *Leonard D. White.* Government employment as a professional career in economics. *Isador Lubin.* Am. Econ. Rev. Mar. (Supp.), 1937.

———. Your civil- and uncivil-servants. *One of them.* Harper's. Apr., 1937.

———. The recent movement for better government personnel. *Luther Gulick.* Am. Pol. Sci. Rev. Apr. 1937.

———. Tribunals. The independent regulatory commissions. *Lindsay Rogers.* Pol. Sci. Quar. Mar., 1937.

———. Trial by commission. *Herbert Corey.* Nation's Bus. Feb., 1937.

———. Practice and procedure before the interstate commerce commission. *Elmer A. Smith.* The doctrine of precedents and the interstate commerce commission. *William H. Pittman.* Should the interstate commerce commission remain an independent tribunal? *George H. Mortimer.* George Washington Law Rev. Mar., 1937.

———. The interstate commerce commission: an appraisal. I. *L. Sharfman.* Yale Law Jour. Apr., 1937.

———. Federal register. *John J. Brauner.* Fed. Bar Assoc. Jour. Apr., 1937.

Administrative Law. The need for a federal administrative court. *O. R. McGuire.* George Washington Law Rev. Nov., 1936.

———. Rights of a teacher in the public schools when school is closed. *Town Hall*. Ky. Law Jour. Mar., 1937.

———. Administrative law: Johnson act: jurisdiction of federal courts where state review procedure prohibits issue of supersedeas. *William J. Isaacson*. Mich. Law Rev. Mar., 1937.

———. The Johnson act: defining a "plain, speedy, and efficient" remedy in the state courts. *Harvard Law Rev.* Mar., 1937.

———. Limitations on investigating officers. *Albert Coates*. N. C. Law Rev. Apr., 1937.

———. Judicial Review. The Illinois commerce commission: findings of fact and scope of review. *Ill. Law Rev.* Feb., 1937.

———. Judicial review of the decisions of the interstate commerce commission. *Martin Tollefson*. George Washington Law Rev. Mar., 1937.

———. Officers. Tort liability of administrative officers. *Edward G. Jennings*. Minn. Law Rev. Feb., 1937.

———. Necessary and indispensable parties to suits against inferior federal officers. *Harvard Law Rev.* Mar., 1937.

———. Infant's eligibility to hold public office. *D. E. Shannon*. Jour. Bar Assoc. of Kan. Feb., 1937.

Agriculture and Land Policy. The nation-wide problem of farm tenancy. *Symposium*. Cong. Digest. Feb., 1937.

———. Some problems of rural land use planning in the northeastern industrial region. *L. A. Satter, Jr.* Suburban county zoning in Wisconsin. *J. G. McNeely*. Jour. Land and Pub. Utility Econ. Feb., 1937.

Bankruptcy. New Frazier-Lemke act litigation. *Charles R. Reynolds, Jr.* George Washington Law Rev. Nov., 1936.

———. Essentials of bankruptcy. *Garrard Glenn*. Commercial Law Jour. Apr., 1937.

———. Proposed revision of the national bankruptcy act: corporate reorganization and stockbrokers. *Garrard Glenn*. Georgetown Law Jour. Mar., 1937.

Commodity Exchange. The commodity exchange act of 1936. *N. L. P. Univ. of Pa. Law Rev.* Apr., 1937.

Communications. Engineering foundations for regulation of television broadcasting. *Edgar F. Felix*. The broadcasting and postal lottery statutes. *A. G. Haley*. Air Law Rev. Oct., 1936.

———. Broadcasting and the law. *R. Jardine Brown* and *E. C. Robbins*. Bell Yard. Nov., 1936.

———. The law on radio programs. *Andrew G. Haley*. George Washington Law Rev. Jan., 1937.

———. Equitable and constitutional limitations on the reserved power to amend corporate charters. *M. H. R. Va. Law Rev.* Mar., 1937.

———. On reducing telephone rates. *Neville Miller*. Pub. Management. Apr., 1937.

Constitutional Law. Historical myth and constitutional absolutism. *Hugh E. Willis*. Jour. Soc. Philos. Jan., 1937.

———. Incorporation by reference and delegation of power—validity of "reference" legislation. *John W. Brabner-Smith*. George Washington Law Rev. Jan., 1937.

———. Constitutional law: freedom of speech, press, and assemblage: criminal syndicalism. *J. M. Duff*. Power of state to tax salary of officer of corporation by federal government. *Saul Weisburg*. Univ. of Pittsburgh Law Rev. Feb., 1937.

———. Problemi attuali del diritto costituzionale americano. *H. Arthur Steiner*. Riv. Int. di Filos. del Diritto. Jan.-Feb., 1937.

———. Nine men and labor relations. *Bernard Kilgore*. Nation's Bus. Feb., 1937.

———. States' rights, nationalism, and the supreme court: since Marshall. *George R. Farnum*. Law Soc. Jour. Feb., 1937.

———. Roger Brooke Taney: notes upon judicial self-restraint. *Dean G. Acheson*. Ill. Law Rev. Feb., 1937.

———. Social welfare and the constitution. *Donald R. Richberg*. Am. Labor Legis. Rev. Mar., 1937.

———. Constitutional principles and jurisprudence. *Hessel E. Yntema*. Georgetown Law Jour. Mar., 1937.

———. Limitations on the congressional power to spend. *Moise S. Steeg, Jr.* Tulane Law Rev. Apr., 1937.

———. Is the amended federal reserve act constitutional? A study in the delegation of power. *David McC. Wright*. The constitutionality of the public utility holding company act of 1935. *W. L. F.* Va. Law Rev. Apr., 1937.

———. Some constitutional aspects of state unemployment compensation. *T. H. Eliot*. Wash. Univ. Law. Quar. Apr., 1937.

———. The lessons of John Marshall. *Alben W. Barkley*. Fed. Bar Assoc. Jour. Apr., 1937.

———. Constitutional law in 1935-36. *Robert E. Cushman*. Am. Pol. Sci. Rev. Apr., 1937.

———. Constitutional law: twenty-first amendment and its effect on the commerce clause and equal protection clause as applied to liquor. *William Stout Gordon*. Mich. Law Rev. Apr., 1937.

———. Amendment. Form of a constitutional amendment. *Lloyd K. Garrison*. Am. Labor Legis. Rev. Mar., 1937.

———. Regulation of child labor resurrected. *E. J. H., Jr.* Georgetown Law Jour. Mar., 1937.

———. Child labor amendment or alternative legislation. *F. L. Kuhlmann*. Wash. Univ. Law Quar. Apr., 1937.

———. Commerce. Constitutionality of federal acts divesting prison-made goods of interstate character. *Charles S. Rhyne*. George Washington Law Rev. Nov., 1936.

———. Regulation of interstate movements of natural gas. *C. E. Troxel*. Jour. Land and Pub. Utility Econ. Feb., 1937.

———. Ex parte snatch. *Thomas A. Cowan*. Ill. Law Rev. Feb., 1937.

———. Interstate commerce: power of congress to protect state laws. *Marjorie Hanson*. Twenty-first amendment: state regulation of importation of intoxicating liquors. *W. K. Unverzagt*. Univ. of Pittsburgh Law Rev. Feb., 1937.

———. Regulation by federal and state coöperation of convict-made goods in interstate commerce. *J. R. W.* Va. Law Rev. Mar., 1937.

———. The commerce clause as a limitation upon imported actions. *J. A. I.* Brooklyn Law Rev. Mar., 1937.

———. Due Process. Constitutionality of anti-heart-balm legislation: due process under state and federal constitutions. *Bernard Margolius*. George Washington Law Rev. Nov., 1936.

———. The police power and esthetic zoning. *R. C. Donnelly*. Jour. Bar Assoc. of Kan. Feb., 1937.

———. Due process of law: resale price maintenance: fair trade act. *H. R. Schmidt*. Univ. of Pittsburgh Law Rev. Feb., 1937.

- . Labor treaties and the due process clause. *A. C. Weinfeld*. Brooklyn Law Rev. Mar., 1937.
- . Should not the 14th amendment be amended? *Edward T. Lee*. Commercial Law Jour. Mar., 1937.
- . Police power—due process and state regulation of food production and distribution. *Charles C. Spangenberg*. Mich. Law Rev. Apr., 1937.
- . Gold Clause. The gold legislation developments during 1936. *George W. Nelson, Jr.* George Washington Law Rev. Jan., 1937.
- . Outline of the gold clause cases. *Angus D. MacLenn*. N. C. Law Rev. Apr., 1937.
- . Obligation of Contracts. Corporations: constitutional law: the effect of the reserved power to alter, amend, or repeal. *Grover C. Bradstreet, Jr.* Cornell Law Quar. Feb., 1937.
- . Constitutional law: anti-deficiency judgment statutes in foreclosure actions: impairment of contract. *Elbridge D. Phelps*. Mich. Law Rev. Mar., 1937.
- . Constitutional law: impairment of contracts: legislative regulation of deficiency judgments. *Donald H. Larmes*. Mich. Law Rev. Apr., 1937.
- . State. The enrolled bill and the validity of legislation. *Charles B. Nutting*. Neb. Law Bull. Feb., 1937.
- . The power of the governor to revoke a call for an extraordinary session of the general assembly. *C. D. Carpenter*. Ky. Law Jour. Mar., 1937.
- . State constitutional development in 1936. *G. C. S. Benson*. Am. Pol. Sci. Rev. Apr., 1937.
- . Operation of a constitutional restraint on bill-styling. *Thornton C. Sinclair*. Univ. of Newark Law Rev. Spring, 1937.
- . Supreme Court. President Roosevelt and the U. S. supreme court. *H. L. Bull. Int. News*. Feb. 20, 1937.
- . The constitution and the higher court. *George R. Farnum*. N. Y. State Bar Assoc. Bull. Mar., 1937.
- . Curbing the supreme court: state experiences and federal proposals. *Katharine B. Fite and Louis Baruch Rubenstein*. Mich. Law Rev. Mar., 1937.
- . The supreme court controversy. *Symposium*. Cong. Digest. Mar., 1937.
- . The president and the court. *Charles E. Carpenter*. U. S. Law Rev. Mar., 1937.
- . The constitutionality of the federal relief measures. Sovereign immunity in suits to enjoin the enforcement of unconstitutional legislation. Harvard Law Rev. Mar., Apr., 1937.
- . The American constitutional crisis. *James T. Adams*. Contemp. Rev. Apr., 1937.
- . "God save this honorable court." *Charles E. Lane*. Commercial Law Jour. Apr., 1937.
- . Packing the court. *L. H. Leek*. Am. Federationist. Apr., 1937.
- . The supreme court issue. *Frederick H. Stinchfield and Others*. Am. Bar Assoc. Jour. Apr., 1937.
- . The people vs. the supreme court. *C. A. Hathaway*. The supreme court and civil liberties. *Obed Purcell*. The supreme court "citadel of slavery." *Elizabeth Lawson*. Communist. Apr., 1937.
- . Congress and the supreme court. *Charles B. Swaney*. Social Sci. Apr., 1937.
- . Short-circuiting the constitution. *P. S. Dyer Smith*. Nat. Rev. Apr., 1937.

———. The autocrat vs. the constitution. *Albert J. Nock*. *Am. Mercury*. May, 1937.

Corporations. A federal system of licenses and charters. *H. M. A. Georgetown*. *Law Jour.* Mar., 1937.

———. Significant trends in modern incorporation statutes. *Wiley B. Rutledge, Jr.* *Wash. Univ. Law Quar.* Apr., 1937.

Debts. Revenue bond remedies. *John Pershing*. *Legal Notes on Local Govt.* Mar., 1937.

———. Analysis of the nature of American public debts: federal, state, and local. *Mabel Newcomer*. The limits to possible debt burdens: federal, state and local. *Paul Studenski*. Debt retirement and the budget. *Simeon E. Leland*. The United States debt: distribution among holders and present status. *Joseph B. Hubbard*. *Am. Econ. Rev. Mar. (Supp.)*, 1937.

Education. Development of satisfactory units of school administration. *Alonzo G. Grace*. The state runs the school in North Carolina. *John Peele*. *Nat. Mun. Rev.* Apr., 1937.

———. Can the schools save democracy? *Avis D. Carlson*. *Harper's*. Apr., 1937.

———. The educational qualifications of the school physician. *Am. Jour. Pub. Health*. Apr., 1937.

Federal System. State court jurisdiction of claims for federal penalties, taxes and customs duties. *DeWitt Williams*. *Wash. Law Rev.* Jan., 1937.

———. Joint-board procedure under the motor carrier act. *J. C. Nelson*. *Jour. Land and Pub. Utility Econ.* Feb., 1937.

———. Interstate Relations. Interstate problems in social security. *A. J. Altmeyer*. *Nat. Mun. Rev.* Apr., 1937.

———. Reciprocal and retaliatory legislation in the American states. *Joseph R. Starr*. *Minn. Law Rev.* Mar., 1937.

———. Some legal aspects of interstate crime. *J. Edgar Hoover*. *Minn. Law Rev.* Feb., 1937.

———. Crime control as an interstate problem. *Justin Miller*. *Wash. Univ. Law Quar.* Apr., 1937.

Government and Business. Industrial regulation through government contracts: the Walsh-Healey Act. *Sumner S. Kittelle*. *George Washington Law Rev.* Nov., 1936.

Health. The regulation and control of milk supplies. *S. V. Layson*. *Milk Dealer*. Feb., 1936.

———. Federal aid for public health work in Minnesota. *A. J. Chesley*. *Minn. Municipalities*. Feb., 1937.

Highways. Statutory prohibition of driving while intoxicated. *Frances W. Lehigh*. *St. John's Law Rev.* Apr., 1937.

Housing. Facing the facts on housing. *Anonymous*. *Harper's*. Mar., 1937.

———. The present situation of inadequate housing. *George Terborgh*. Financing of housing. *Howard H. Preston*. Some economic implications of modern housing. *Charles F. Lewis*. *Am. Econ. Rev. Mar. (Supp.)*, 1937.

Labor. Growth of state employment services, 1933, to December, 1936. *G. L. Webber*. *Monthly Labor Rev.* Feb., 1937.

———. Minimum wage laws. *Peter Caldwell*. *Jour. Bar Assoc. of Kan.* Feb., 1937.

———. Criminal conspiracy and early labor combinations in New York. *Richard B. Morris*. *Pol. Sci. Quar.* Mar., 1937.

———. Sit-down strikes. *Ill. Law Rev.* Mar., 1937.

———. The legality of "peaceful coercion" in labor disputes. *Bernard Eskin*. Univ. of Pa. Law Rev. Mar., 1937.

———. On the assembly line: man versus machine. *Gene Richard*. The law and labor. *G. E. Sokolsky*. Atlantic. Apr., 1937.

———. Revolution in Michigan. *Gordon Carroll*. Am. Mercury. Apr., 1937.

———. Labor on the march. *Edward Levinson*. Is a farmer-labor alliance possible? *Rexford G. Tugwell*. Harper's. May, 1937.

Legislation. The congressional committee system of studying national problems. *Symposium*. Cong. Digest. Jan., 1937.

———. It couldn't happen in congress now. *Florence P. Kahn*. Nation's Bus. Feb., 1937.

———. Connecticut's colonial committee system. *E. F. Humphrey*. Conn. Bar Jour. Oct., 1936.

———. The legislation of the forty-sixth general assembly of Iowa, extra session. *Jacob A. Swisher*. Iowa Jour. History and Politics. Apr., 1937.

Liquor Control. Statutory injunctions under the federal alcohol administration act. *Arthur A. Alexander*. Brooklyn Law Rev. Mar., 1937.

Money. Credit and monetary policies of the federal reserve. *M. E. Eccles*. Bankers Mag. Apr., 1937.

Monopoly and Competition. Some aspects of the Robinson-Patman act. *Maurice Gell*. Law Soc. Jour. Feb., 1937.

———. Marketing under the Robinson-Patman act. Ill. Law Rev. Mar., 1937.

———. The Patman act in practice. *Blackwell Smith*. Trade restraints: false representation as unfair method of competition. Mich. Law Rev. Mar., Apr., 1937.

———. Who is to prevent unfair practices? *Ida M. Tarbell*. Don't fear the Robinson-Patman law. *H. B. Teegarden*. Nation's Bus. Mar., Apr., 1937.

———. Unfair competition: a reconsideration of basic concepts. *R. E. Lunn* and *J. J. Biunno*. Univ. of Newark Law Rev. Spring, 1937.

———. Federal price legislation. *W. H. S. Stevens*. A retail attitude toward resale price fixing. *I. Forrest Walker*. Fair trade legislation restricting price cutting. *E. T. Grether*. Jour. of Marketing. Apr., 1937.

———. The Robinson-Patman price discrimination act. *Samuel Blumberg*. Commercial Law Jour. Apr., 1937.

Parties and Elections. Party mobilization in Ohio. *John Williamson*. The commonwealth federation moves on. *Morris Raport*. Communist. Mar., Apr., 1937.

———. The Swedish-American press and the election of 1892. *O. Frittof Ander*. Miss. Valley Hist. Rev. Mar., 1937.

———. Roosevelt and the spoils system. *H. B. Elliston*. Fortnightly. Mar., 1937.

———. Roosevelt and the party system. *Ernest K. Lindley*. Southern Rev. Spring, 1937.

———. Republican propaganda in the 1936 campaign. *Ralph D. Casey*. The press and the election. *Virginus Dabney*. Public Opinion Quar. Apr., 1937.

———. Newspapers in the campaign. *E. O. Stene*. Social Sci. Apr., 1937.

———. What happens to a party when it makes a sweep? *James T. Adams*. Yale Rev. Spring, 1937.

———. The future of the republican party. *D. W. Brogan*. Pol. Quar. Apr.-June, 1937.

Presidency. A third presidential term. *Fortune*. Apr., 1937.

———. Work relief for presidents. *Malcom R. Eiselen*. Social Sci. Apr., 1937.

Public Utilities. Recent developments in law of public utilities. *John L. Collins*. Conn. Bar Jour. Oct., 1936.

———. Public utility financing in the fourth quarter and the year, 1936. *E. D. Ostrander*. Jour. Land and Pub. Util. Econ. Feb., 1937.

———. Forecast of power development. *Morris L. Cooke*. Am. Econ. Rev. Mar. (Supp.), 1937.

———. Competitive substitutes for public utility service. *B. N. Behling*. Am. Econ. Rev. Mar., 1937.

———. Uncle Sam's regulatory topsy and the power industry. *G. W. Lineveaver*. Pub. Util. Fort. Mar., 4, 1937.

———. Innovations in public utility accounting regulation. *E. W. Morehouse*. Yale Law Jour. Apr., 1937.

———. Government Competition. Federal power proposals and private dollars. *Herbert Corey*. Who foots the bills for the federal power subsidies? *F. T. Post*. Is the moneyed group behind public ownership of utilities? *Arthur Huntington*. Pub. Util. Fort. Mar. 4, 18, Apr. 1, 1937.

———. Rates. A recent effort to improve rate regulation. *R. W. Harbeson*. Jour. Land and Pub. Util. Econ. Feb., 1937.

———. The possibility of a scientific electrical rate system. *J. M. Clark*. Am. Econ. Rev. Mar. (Supp.), 1937.

———. Going value is still with us, and why not? *Lloyd Bemis*. The futility of regulation by valuation. *E. H. Barber*. Fixing depreciation rates for telephone companies. *F. J. Hopple*. Pub. Util. Fort. Mar. 4, 18, Apr. 15, 1937.

Recovery. This recovery. *George Soule*. Harper's. Mar., 1937.

———. Unemployment and recovery. *Edwin E. Witte*. Yale Rev. Spring, 1937.

Regions. The south: region or colony? *Benjamin B. Kendrick* and *Marjorie S. Mendenhall*. Southern Rev. Spring, 1937.

———. The south strains toward decency. *Arthur Raper*. North Am. Rev. Spring, 1937.

———. The south's unbalanced budget. *David C. Coyle*. Va. Quar. Rev. Spring, 1937.

Rivers. The Des Moines river improvement project. *Jacob A. Swisher*. Iowa Jour. Hist. and Pol. Apr., 1937.

Securities. Coördination of securities acts. *John W. Kearns*. Ill. Law Rev. Feb., 1937.

———. Control of speculation under the securities exchange act. *G. Wright Hoffman*. Unorganized speculation: the possibility of control. *Floyd F. Burtchett*. Am. Econ. Rev. Mar. (Supp.), 1937.

———. Three years of the securities act. *Warner Fuller* and *Others*. Law and Contemp. Probs. Apr., 1937.

Social Security. Some phases of the workmen's compensation act. *J. B. Bennett*. The new social security law. *T. H. Eliot*. Mich. State Bar Jour. Jan., 1937.

———. Compensation of occupational diseases from a legal viewpoint. *William W. Robinovitz*. Wis. Law Rev. Feb., 1937.

———. Social security laws. *M. W. Latimer*. Jour. Accountancy. Feb., 1937.

———. The social security act and personnel administration. *O. P. Robinson*. Jour. of Retailing. Feb., 1937.

———. Unemployment insurance and workmen's compensation. *James A. Pike*. So. Calif. Law Rev. Mar., 1937.

———. Statistical requirements of the social security board for efficient administration. *A. J. Altmeyer*. Minimum statistical requirements for efficient administration of unemployment compensation systems. *G. E. Biggs*. The employer's problem in social security reporting. *C. E. Jarchow*. Statistical requirements of social security programs. *S. M. Du Brul* and *Ewan Clagus*. Jour. Am. Stat. Assoc. Mar., 1937.

- . Problem of old age benefit reserves. *M. A. Linton*. Old age benefit plan deferred. *Edwin E. Witte*. Am. Labor Legis. Rev. Mar., 1937.
- . New social security law. *Thomas H. Eliot*. The Brief. Mar., 1937.
- . Proposed amendments to the social security act. *W. R. C.* Georgetown Law Jour. Mar., 1937.
- . The federal-state unemployment compensation provisions of the social security act. *W. R. Williamson*. Unemployment relief and insurance. *Emerson Ross*. Economic problems arising from social security taxes and reserves. *E. B. Schwulst*. Am. Econ. Rev. Mar. (Supp.), 1937.
- . The Pennsylvania unemployment compensation law. *M. P.* Univ. of Pa. Law. Rev. Mar., 1937.
- . The social adjustment of 381 recipients of old age allowances. *J. K. Folson* and *C. Margaret Morgan*. Am. Sociol. Rev. Apr., 1937.
- . The social security act. *Jack B. Tate*. Fed. Bar Assoc. Jour. Apr., 1937.
- T.V.A. Sociology in the TVA. *A. E. Morgan*. Am. Sociol. Rev. Apr., 1937.
- . TVA enlists local coöperation. *E. S. Wengert*. Public Opinion Quar. Apr., 1937.
- . A plan to solve TVA tangle. *G. E. Doying*. Pub. Util. Fort. Mar. 18, 1937.
- Tariff. Construction of tariff act to allow importation of contraceptives for legitimate use. *S. M. N., Jr.* Va. Law Rev. Apr., 1937.
- . History and results of the smuggling act. *Stephen J. Springarn*. Fed. Bar Assoc. Jour. Apr., 1937.
- Taxation. Suitable forms of local taxation. *M. Kambe*. Kyoto Univ. Econ. Rev. Dec., 1936.
- . A symposium on state income taxation. *Roswell McGill* and *Others*. Ia. Law Rev. Jan., 1937.
- . Trend in rural tax delinquency in Wisconsin. *C. F. Wehrwein*. Jour. Land and Pub. Util. Econ. Feb., 1937.
- . Suggested modifications of a bad debt provision of the federal revenue act. *Randolph E. Paul*. Cornell Law Quar. Feb., 1937.
- . Taxation of land owned by charitable and religious institutions in Pennsylvania. *J. R. Gordon*. Univ. of Pittsburgh Law Rev. Feb., 1937.
- . The Illinois supreme court and the retailers' occupation tax. *Martin Philipsborn, Jr.* Ill. Law Rev. Feb., 1937.
- . A selected bibliography on legal problems in local taxation. Legal Notes on Local Govt Mar., 1937.
- . Windfall tax and processing tax refund. *Wirth F. Ferger*. Am. Econ. Rev. Mar., 1937.
- . State sales and use taxes. *John W. Ahern*. Georgetown Law Jour. Mar. 1937.
- . Corporate tax problems: capital stock and dividend distributions. *G. N. Nelson*. State inheritance taxes. *E. S. Todd*. Federal and state income taxes affecting real estate. *W. H. Schulman*. The Kentucky motor vehicle usage tax. *J. W. Martin* and *H. C. Reeves*. The coördination of state and federal taxes. *Roswell McGill*. The place of business taxation in the revenue systems of the states. *Roscoe Arant*. The federal revenue act of 1936. *A. H. Kent*. Annual income as a method of valuation for real estate taxation. *E. W. Lawson*. Organization for compliance with taxing statutes. *M. G. Eaton*. Tax Mag. Mar., Apr., 1937.
- . Is there a solution for the Illinois tax muddle? *Deneen A. Watson*. The surtax on undistributed profits section of the revenue act of 1936. *Lawrence Ryan*. John Marshall Law Quar. Mar., 1937.

———. Federal taxation of admission to football games conducted by state universities. *M. L. C. Va. Law Rev.* Mar., 1937.

———. Intergovernmental taxation. *Clifford J. Hynning*. Chicago-Kent Rev., Mar., 1937.

———. State jurisdiction to tax dividends and stock profits to natural persons. *A. L. Harding*. Calif. Law Rev. Mar., 1937.

———. Taxation: exemption of state instrumentality from federal tax. *Francis T. Goheen*. Mich. Law Rev. Apr., 1937.

———. Distribution taxes from the business man's point of view. *C. O. Sherrill*. Administration of retail sales taxes. *Neil Jacoby*. Jour. of Marketing. Apr., 1937.

Transportation. Division of joint rates and the Baltimore and Ohio case. *Yale Law Jour.* Mar., 1937.

———. Progress in the regulation of motor carriers by the interstate commerce commission. *A. R. De Felice and Others*. George Washington Law Rev. Mar., 1937.

———. The interstate commerce commission and congress—its influence on legislation. *J. J. Esch*. The interstate commerce commissioners—the first fifty years: 1887–1937. *C. A. Miller*. The interstate commerce commission and the development of safety legislation. *Bernard Margolius*. Work of the interstate commerce commission in railroad reorganization proceedings under section 77 of the bankruptcy act. *C. S. Rhyna*. The evolution of the interstate commerce act: 1887–1937. *Clyde B. Atchison*. George Washington Law Rev. Mar., 1937.

FOREIGN AND COMPARATIVE GOVERNMENT

Books

Anstey, Vera. The economic development of India. Pp. 592. London: Longmans. 1937.

Arnold, Arthur Z. Banks, credit, and money in soviet Russia. Pp. 582. N. Y.: Columbia Univ. Press. 1937.

Ashton, E. B. The fascist: his state and his mind. Pp. 335. N. Y.: Morrow. 1937.

Bainville, Jacques. Dictators. Pp. 268. London: Cape. 1937.

Balassa, Imre. Death of an empire. Pp. 286. N. Y.: Hillman-Curl. 1937.

Bardoux, J. Ni communiste, ni hitlérienne: la France de demain. Pp. 105. Paris: Sirey.

Barns, Margarita. India: today and tomorrow. Pp. 301. London: Allen & Unwin. 1937.

Beck, Friedrich A. Der Nationalsozialismus als ganzheitliche Einheit von Geist und Leben. Pp. 89. Würzburg: Triltsch. 1936.

Benjamin, René. Mussolini et son peuple. Pp. 286. Paris: Plon.

Bode, Gunther. Das politische Prinzip der Selbstverwaltung in der Verfassungsgeschichte des deutschen Volkes. Pp. 106. Ohlau i. Schl.: Eschenhagen. 1936.

Bousquet, M. Des servitudes de droit administratif. Pp. 254. Paris: Thézard et Fils.

Cleland, Wendell. The population problem in Egypt. Pp. 146. Lancaster (Pa.): Science Press. 1936.

Clementi, Sir Cecil. A constitutional history of British Guiana. Pp. 546. N. Y.: Macmillan. 1937.

Collard, Dudley. Soviet justice and the trial of Radek and others. Pp. 208. London: Gollancz. 1937.

Coste, H. Traité pratique de droit à l'usage des candidates aux emplois administratifs. Pp. 942. Paris: Sirey.

- Crabitts, Pierre.* Unhappy Spain. Pp. 244. Baton Rouge (La.): La. State Univ. Press. 1937.
- Dalton, John E.* Sugar; a case study of government control. Pp. 321. N. Y.: Macmillan. 1937.
- Darrah, David Harley.* Hail Caesar! Pp. 347. Boston: Hale, Cushman & Flint. 1936.
- Delille, Jacques.* U. R. S. S. terre d'oppression? Paris: Spes.
- Dupuy, E. N.* La nouvelle Triplice. Paris: Ed. Fustier.
- Erskine of Marr, Ruairidh.* The crown of England. Pp. 183. London: Dent. 1937.
- Foignet.* Manuel élémentaire de droit administratif. Pp. 800. Paris: Rousseau.
- Fong, H. D.* Toward economic control in China. Pp. 91. N. Y.: Inst. of Pacific Rels. 1936.
- Guernier, M.* Essai sur une politique économique de l'empire français. Pp. 154. Paris: Pedone.
- Hallgren, Mauritz A.* Why I resigned from the Trotsky defense committee. Pp. 14. N. Y.: Workers Lib. Pub. 1937.
- Heinberg, J. G.* Comparative major European governments. Pp. 560. N. Y.: Farrar & Rinehart. 1937.
- Eocart, A. M.* Kings and councillors. Pp. 306. London: Luzac. 1937.
- Iðriess, Ion L.* Man tracks—with the mounted police in Australian wilds. Pp. 320. London: Cape. 1937.
- Joly, André.* Les impôts sur les revenus. Pp. 206. Paris: L'auteur.
- Khan, Sir Shafa'at Ahmad.* Indian federation. Pp. 462. N. Y.: Macmillan. 1937.
- Konrad, Franz.* Die persönliche Freiheit im national-sozialistischen Deutschen Reich. Pp. 83. München: Mössl. 1936.
- Labaume, L. and Valla, F.* Législation de l'électricité. Paris: Dunod.
- Leue, Adolf.* The prince of liberty: a German on contemporary Britain. Pp. 44. London: Hogarth Press. 1937.
- Leventhal, Marvin.* The Jews of Germany; a story of sixteen centuries. Pp. 455. Phila.: Jewish Pub. Soc. 1936.
- Macardie, Dorothy.* The Irish republic: a documented chronicle of the Anglo-Irish conflict and the partitioning of Ireland, with a detailed account of the period, 1916-1923. Pp. 1072. London: Gollancz. 1937.
- Marx, Morstein.* Beitrage zum Problem des parlamentarischen Minderheitenschutzes. Pp. 48. Hamburg: Lütcke & Wulff. 1924.
- Muir, Ramsay.* How Britain is governed. Pp. 335. London: Constable. 1937.
- O'Brien, Eris.* The foundation of Australia (1786-1800). Pp. 446. London: Sheed & Ward. 1937.
- Pélouz, Robert.* Parti national socialiste et ses rapports avec l'état. Pp. 100. Paris: Hartmann.
- Roussel, G.* Le contrat de l'intervention du juge et du législateur dans son exécution. Pp. 313. Paris: Libr. Gén. Droit et Juris.
- Rue, Henri.* La réforme monétaire en Belgique. Pp. 274. Paris: Libr. Gén. Droit et Juris.
- Sadler, A. L.* The maker of modern Japan: the life of Tokugawa Ieyasu. Pp. 429. London: Allen & Unwin, 1937.
- Siegfried, André.* Canada. Pp. 315. London: Cape. 1937.
- Sinclair, Robert.* Metropolitan man; the future of the English. Pp. 366. London: Allen & Unwin. 1937.
- Smith, Andrew.* I was a soviet worker. Pp. 286. London: R. Hale. 1937.

- Snowden, Philip.* Autobiography. London: Nicholson & Watson. 1937.
- Stekoll, Harry.* Humanity made to order; the rise and fall of the Russian experiment. Pp. 253. N. Y.: Lee Furman. 1937.
- Stokes, Richard L.* Léon Blum, poet to premier. Pp. 289. N. Y.: Coward-McCann. 1937.
- Tharaud, Jérôme et Jean.* Cruelle Espagne. Pp. 240. Paris: Plon.
- Trotabas, L.* Les finances publiques et les impôts de la France. Pp. 206. Paris: A Colin.
- Trotsky, Leon.* Lessons of October. Pp. 125. N. Y.: Pioneer Pub. 1937.
- Trotsky, Leon.* The revolution betrayed: what is the soviet union and where is it going? Pp. 315. Garden City (N. Y.): Doubleday. 1937.
- Werth, Alexander.* Which way France? Pp. 414. N. Y.: Harper. 1937.
- Wheeler, Harold F. B.* Makers of the British empire. Pp. 256. London: Harrap. 1937.
- Williams, Wythe.* Dusk of empire; the decline of Europe and the rise of the United States as observed by a foreign correspondent in a quarter century of service. Pp. 344. N. Y.: Scribner. 1937.
- Wood, Eric.* Phantom wings over Spain. Pp. 223. London: J. Hamilton. 1937.
- Zahn-Golodetz, L.* L'économie planifiée en U.S.S.R. et l'économie dirigée aux États-Unis. Pp. 159. Paris: A. Nizet et M. Bastard.

Articles

- Administration.** Le rôle administratif du chef du gouvernement. *Z. Magyary.* Où en est l'administration? *G. Gibbon.* La formation des agents de l'administration. *R. Didisheim.* Rev. Int. des Sciences Admin. Jan.-Mar., 1937.
- Australia.** Australia comes, America goes. *William Teeling.* English Rev. Apr., 1937.
- Belgium.** Après dix années d'expérience: le régime de l'exploitation des chemins de fer en Belgique. *Georges de Leener.* L'évolution économique et les organismes publics en Belgique. *R. J. Lemoine.* L'évolution de l'impôt sur les revenus en Belgique. *F. Loeckx.* Rev. Econ. Int. Feb., 1937.
- British Empire.** British possessions. Canada and the abdication act. *W. P. M. Kennedy.* Univ. of Toronto Law Jour. Vol. 2, no. 1, 1937.
- . Can Canada ratify international labor conventions? A problem of the division of power between central-state and member-states in a federal union. *William Gorham Rice, Jr.* Wis. Law Rev. Feb., 1937.
- . Competition and the law. *E. Wyndham White.* A comparative study of the anti-trust laws of the British dominions and of their administration. *Philip Strickland.* Jour. Comp. Legis. and Int. Law. Feb., 1937.
- . The imperial conference. *R. Mac G. Dawson.* Canadian Jour. Econ. and Pol. Sci. Feb., 1937.
- . The imperial conference and defence. *H. V. Hodson.* The privy council and Canada. *Historicus.* Fortnightly. Apr., 1937.
- Canada.** Canada at the cross-roads. *Anthony Jenkinson.* English Rev. Mar., 1937.
- China.** Latest moves in China. *Hotsumi Ozaki.* Contemp. Japan. Mar., 1937.
- Colonies.** The claim for colonies: a Belgium view. *M. Pierre Orts.* Int. Affairs. Mar.-Apr., 1937.
- . Colonial rule in Africa. *Ostler.* Nat. Rev. Apr., 1937.
- . La questions des matières premières et la redistribution des colonies et mandats. *Henri Hauser.* La question des revendications coloniales et la condition essentielle de la prospérité des nations. *Georges Hostelet.* Rev. Econ. Int. Jan., 1937.

- Cuba. The advisory law commission of Cuba. *David A. Lockmiller*. *Hispanic Am. Hist. Rev.* Feb., 1937.
- . The military dictatorship in Cuba. *P. Favio*. *Communist*. Apr., 1937.
- Finland. The fascists lose Finland. *W. W. Crotch*. *Current Hist.* Mar., 1937.
- France. Les tendances du pouvoir et de la liberté en France au xx^e siècle. *Maxime Leroy*. *Archiv. Philos. du Droit et Sociol. Jurid.* Vol. 6, nos. 3-4. 1936.
- . La protection de la liberté individuelle et les lois du 7 février 1933 et du 25 mars 1935. *B. Salengardes*. *Rev. Gén. Droit Légis. et Juris.* Oct.-Dec., 1936.
- . Notes on France. *Randolph Hughes*. *Nine. Cent.* Mar., 1937.
- . Réflexions sur le problème budgétaire. *Abel Gardey*. La reprise française: apparences et réalités. *André Piettre*. *Rev. Pol. et Parl.* Mar., 1937.
- . France finds a Huey Long. *L. F. Giller*. *Current Hist.* Apr., 1937.
- . M. Blum's retreat. *Alexander Werth*. *Fortnightly*. Apr., 1937.
- Germany. The new Germany. *R. E. Millard*. *Bell Yard*. Nov., 1936.
- . A plan for German industrial expansion. *Georg Solmsen*. *International Affairs*. Mar.-Apr., 1937.
- . Hitlerism after four years. *R. W. Seton-Watson*. *Fortnightly*. Mar., 1937.
- . The German bank inquiry. *Benjamin H. Beckhart*. *Pol. Sci. Quar.* Mar., 1937.
- . The German economic dilemma. *John C. de Wilde*. *For. Pol. Rep.* Mar. 15, 1937.
- . The German system of administrative courts. *Rudolf E. Uhlman* and *Hans G. Rupp*. *Ill. Law Rev.* Mar., 1937.
- . Work creation policy in Germany, 1932-1935. *Leo Grebler*. *Int. Labour Rev.* Mar., 1937.
- . National socialism and the German universities. *Spectator*. *Contemp. Rev.* Apr., 1937.
- . The German god. *C. L. Heymann*. *Current Hist.* Apr., 1937.
- Great Britain. Suits by and against the crown. *W.P.M.K.* Univ. of Toronto *Law Jour.* Vol. 2, no. 1, 1937.
- . The British air navigation acts, 1920 and 1936. *G. R. Thomson*. *Air Law Rev.* Oct., 1936.
- . La couronne britannique, le royaume, et les dominions. *Y. M. Goblet*. *Rev. Pol. et Parl.* Feb., 1937.
- . The abdication of Edward VIII. *Hilaire Belloc*. *Am. Rev.* Feb., 1937.
- . The king: marriage and abdication. *E. H. Coghill*. *Australian Law Jour.* Feb. 15, 1937.
- . Avoidance of income tax in Great Britain. *H. A. Strangman*. *Tax Mag.* Mar., 1937.
- . British racial decline. *G. F. McCleary*. *Fortnightly*. Mar., 1937.
- . Civil list pensions. Parliament at prayer. *Editor*. Our defence organisation. *Charles Harris*. The minister of defence. *Herbert Richmond*. *Nine. Cent.* Mar., Apr., 1937.
- . Control of the fleet air arm. *Kenneth Edwards*. *Fleet air arm*. *Oliver Stewart*. *English Rev.* Mar., Apr., 1937.
- . England's weak spot. England turns a corner. *Elmer Davis*. *Queen Victoria is dead*. *William Zukerman*. *Harper's*. Mar., Apr., May, 1937.
- . Factories and national physique. *L. D. Alexander*. *English Rev.* Mar., 1937.
- . Inside England. *John Gunther*. *Atlantic*. Mar., 1937.

———. Is the labour party democratic? *J. F. C. Hearnshaw*. The challenge to the crown. *Michael O'Dwyer* and *C. W. A. Coulter*. An election 50 years ago. *Clara Lady Raleigh*. General staff and the army. *Victor Wallace Germain*. *Nat. Rev.* Mar., Apr., 1937.

———. The king, the cabinet, and the people. *Historian*. The next step in the coal industry. *G. D. H. Cole*. *Pol. Quar.* Jan.—Mar., 1937.

———. We Welsh. *Caradoc Evans*. *Fortnightly*. Mar., 1937.

———. Communism by the back door. *Henry Page-Croft*. *Nat. Rev.* Apr., 1937.

———. London on edge. A momentous year. *John Gunther*. *Atlantic*, Apr., 1937.

———. The abdication and the constitution. *W. Ivor Jennings*. The factories bill. *Labourer*. *Pol. Quar.* Apr.—June, 1937.

———. The problem of the special areas. *Percy Alden*. *Contemp. Rev.* Apr., 1937.

———. Victoria invicta. *Frances W. Knickerbocker*. *Sewanee Rev.* Apr.—June, 1937.

Greece. Greece's benevolent despotism. *Christ Loukas*. *Current Hist.* Mar., 1937.

———. General Metaxas and the new Greek régime. *S. P. P. Cosmetatos*. *Nine. Cent.* Apr., 1937.

Highways. The roads of tomorrow. *John Prioleau*. *Fortnightly*. Mar., 1937.

India. Land taxation in India. *Maneklal Vakil*. The political capacity of the Indian people. *Sri Aurobindo*. India's monetary problem. *G. N. Joshi*. *Modern Rev.*, Feb., Mar., 1937.

———. A socialist succeeds Gandhi. *Krishnalal Shridharani*. Burma divorces India. *J. L. Christian*. *Current Hist.* Mar., Apr., 1937.

———. The Indian assembly. *Patrick Lacey*. *Cent.* Mar., 1937.

———. India's decision. *Lord Meston*. *Fortnightly*. Apr., 1937.

———. The India act in operation. *Felix Strage*. *English Rev.* Apr., 1937.

Ireland. The prospect of a united Ireland. *W. A. Newman*. *Fortnightly*. Apr., 1937.

Italy. Sanctions and trade restrictions in Italy. *William G. Welb*. *Am. Econ. Rev.* Mar., 1937.

———. Out of fascism into democracy. *John Bell*. *Nat. Rev.* Apr. 1937.

———. The constitutional position of the partito nazionale fascista. *H. Arthur Steiner*. *Am. Pol. Sci. Rev.* Apr., 1937.

Japan. Japan's political crisis. *J. Ingram Bryan*. *Contemp. Rev.* Mar., 1937.

———. The tax reform bill. *Terutomo Makino*. The anti-comintern pact in domestic politics. *Tsunego Baba*. Japan's proletarian movement. *Mitsu Kohno*. Characteristics of education in Japan. *Nyozekan Hasegawa*. A national labour movement. *Seiho Arima*. *Contemp. Japan*. Mar., 1937.

Mexico. Mexico—tierra triste. *Sean Niall* and *Katherine Mangan*. *North Am. Rev.* Spring, 1937.

Money. World's currency dilemma. *H. L. Dey*. *Modern Rev.* Feb., 1937.

———. La stabilisation monétaire: est-elle souhaitable? est-elle possible? *L. Dechesne*. *Rev. Econ. Pol.* Jan.—Feb., 1937.

———. Misunderstood money. *J. H. Goodbar*. *Current Hist.* Mar., 1937.

———. The situation of gold today in relation to world currencies. *Alvin H. Hansen*. Managed currencies. *James Washington Bell*. *Am. Econ. Rev.* Mar. (Supp.), 1937.

Newfoundland. The Amulree report (1933): a review. *A. F. W. Plumptre*. Government-by-commission (1934-6): a survey. *A. M. Fraser*. Basic problems of government in Newfoundland. *H. A. Innis*. *Canadian Jour. Econ. and Pol. Sci.* Feb., 1937.

Opium. The opium menace in the far east. *F. T. Merrill*. For. Pol. Rep. Mar. 1, 1937.

Philippines. The people's front in the Philippines. *Juan Tamarao*. Communist. Apr., 1937.

———. The Philippines today and tomorrow. *Stephan Duggan*. Yale Rev. Spring, 1937.

Poland. Factory inspection in Poland, 1928-1933. *Int. Labour Rev.* Mar., 1937.

Power. The coördination of public and private power interests in European countries. *Hans Staudinger*. Am. Econ. Rev. Mar. (Supp.), 1937.

Russia. Le statut de l'U.S.S.R., commerçant dans le droit conventionnel soviétique. *A. Stoupnitzsky*. Rev. Droit Int. et Legis. Comp. Vol. 17, No. 4. 1936.

———. Soviet currency. *Sidney Webb*. Pol. Quar. Jan.-Mar., 1937.

———. Le sens des procès de Moscou. *Pierre Fervacque*. Rev. Pol. et Parl. Feb., 1937.

———. Stalin's revenge. *Paul Scheffer*. Fortnightly. Mar., 1937.

———. The trial of the Trotskyite agents of fascism. *I. Amter*. Communist. Mar., 1937.

———. To speak my mind about Russia. *E. M. Delafield*. Russia grows up. *Maurice Hindus*. Harper's. Mar., May, 1937.

———. Moscow likes millionaires. *Eugene Lyons*. Current Hist. Apr., 1937.

———. The new constitution of the Soviet union. *Miriam E. Oatman*. Int. Law and Fels. Apr. 16, 1937.

Social Security. British and American old age insurance. *J. Douglas Brown*. Am. Labor Legis. Rev. Mar., 1937.

———. The passage of the British old age pension act of 1908. *Benjamin Sacks*. Southwestern Soc. Sci. Quar. Mar., 1937.

Spain. Past and future in the real Spain of today. *Maria F. de Laguna*. English Rev. Mar., 1937.

———. Spain: "six of one and a half dozen of the other." *Marquis de Merry del Val*. Spain: impressions and reflections. *Douglas Jerrold*. Nine. Cent. Mar., Apr., 1937.

———. Spain: the war. *Nicola Chiaromonte*. The politics. *Salvador de Madariaga*. Atlantic. Mar., 1937.

———. Three Spanish lessons. *George Young*. Contemp. Rev. Mar., 1937.

———. Malaga and after. *Charles Duff*. Fortnightly. Apr., 1937.

———. Background of war: Spain. *Fortune*. Apr., 1937.

———. I lived in Madrid. *Lester Ziffren*. Last letters from Spain. *Ben Leider*. Current Hist. Apr., 1937.

Taxation. Ability to pay and the ultimate burden of taxes. *James H. Gilbert*. Commonwealth Rev. Jan., 1937.

Turkey. The emergence of Turkey. *Kenneth Williams*. Fortnightly. Mar., 1937.

———. Turkey goes to school. *H. N. Howard*. Current Hist., Mar., 1937.

INTERNATIONAL RELATIONS

Books

Ballende, Laurence. Les ententes économiques internationales. Pp. 374. Paris: Libr. Tech. et Écon.

Bicker, Karl. Das Verhältnis von Staatsvertragsrecht und Vertragsgesetzesrecht nach deutschen Reichsrecht. Pp. 63. Marburg: Fischer. 1936.

Bienstock, Gregory. The struggle for the Pacific. Pp. 299. N. Y.: Macmillan. 1937.

Bouillet, Suzanne. Manuel de la paix. Pp. 64. Paris: Ed. Rieder.

Bremer, Irene. Das Lebensinteresse des Staates und die völkerrechtlichen Verträge. Pp. 50. Dresden: Dittert. 1937.

Bustamante Y. Sirven, A. S. de. Droit international public. Pp. 624. Paris: Sirey.

Callahan, J. M. American foreign policy in Canadian relations. Pp. 574. N. Y.: Macmillan. 1937.

Campbell, Malcom. The peril from the air. Pp. 126. London: Hutchinson. 1937.

Culbertson, William S. Reciprocity. Pp. 298. N. Y.: McGraw-Hill. 1937.

Davis, Shelby Cullom. The French war machine. Pp. 221. London: Allen & Unwin. 1937.

Debeney, Général. La guerre et les hommes. Pp. 392. Paris: Plon.

Dimond, Alex, and Others. Three views of pacifism. Pp. 47. London: Epworth Press. 1937.

Dominique, Pierre. La guerre qui vient. Pp. 43. Paris: Flammarion Fils.

Eckhardt, Carl Conrad. The papacy and world affairs. Pp. 311. London: Cambridge Univ. Press. 1937.

Eden, Anthony. British foreign policy after the league of nations crisis of 1935-36. London: Friends of Europe. 1937.

Elton, Lord, and Others. Is a world system possible? Pp. 32. N. Y.: Am. Book Co. 1937.

Eustathiades, C. Th. La responsabilité internationale de l'état pour les actes des organes judiciaires et le problème du déni de justice en droit international. Pp. 460. Paris: Pédone.

Forgac, A. Essai sur la diplomatie nouvelle. Pp. 32. Paris: Pedone.

Greciano, Georges. Europe, terre instable? Pp. 112. Paris: Bossuet.

Greenberg, Louis S. Nationalism in a changing world. Pp. 154. N. Y.: Greenberg. 1937.

Hallgren, Mauritz Alfred. The tragic fallacy; a study of America's war policies. Pp. 494. N. Y.: Knopf. 1937.

Heald, Stephen, ed. Documents on international affairs, 1935. Pp. 588. N. Y.: Oxford. 1937.

Herndon, Angelo. Let me live. Pp. 409. N. Y.: Random House. 1937.

Horn, Martin. Die geschichtliche Entwicklung des neuzeitlichen Neutralitätsbegriffes. Pp. 59. Würzburg: Triltsch. 1936.

Hudson, G. F. The far east in world politics; a study in recent history. Pp. 286. London: Oxford Univ. Press. 1937.

Hudson, Manley O., ed. Cases and other materials on international law. Pp. 1480. St. Paul (Minn.): West Pub. Co. 1936.

Iversen, Carl. Aspects of the theory of international capital movements. Pp. 536. N. Y.: Oxford. 1937.

Johnstone, William C. The Shanghai problem. Pp. 326. Stanford (Calif.): Stanford Univ. Press. 1937.

Kaestlin, Henrik. Die Anpassung des staatlichen Rechts an den Völkerbundpakt, den Kellogg-Pakt, und den Vertrag von Versailles. Pp. 108. Zürich: Börsig. 1936.

Karig, Walter. Asia's good neighbor; we were once—can we be again? Pp. 308. Indianapolis: Bobbs-Merrill. 1937.

Keyhan, M. La force et le droit dans les relations internationales. Pp. 200. Paris: Sirey.

La Fargue, Thomas B. China and the world war. Pp. 400. Stanford (Calif.): Stanford Univ. Press. 1937.

Lanux, Pierre de. La neutralité américaine en 1936. Pp. 64. Paris: Hartmann.

Lévy, Roger. Les conséquences du développement économique du Japon pour l'empire français. Pp. 184. Paris: Hartmann.

- Liedtke, Heinz.* Kellogg-Pakt und völkischer Staat. Pp. 42. Würzburg: Mayr: 1933.
- Masters, Donald C.* The reciprocity treaty of 1854. Pp. 278. London: Longmans. 1937.
- Melchett, Henry M.* Thy neighbour. Pp. 287. N. Y.: Kinssey. 1937.
- Moore, Samuel Taylor.* America and the world war. Pp. 314. N. Y.: Greenberg. 1937.
- Morini, Comby.* Les relations économiques de la France avec les pays d'Europe danubienne. Pp. 140. Paris: Hartmann.
- Noël-Baker, Philip.* The private manufacture of armaments. Vol. 1. Pp. 574. N. Y.: Oxford. 1937.
- Padmore, George.* How Britain rules Africa. Pp. 402. N. Y.: Lothrop, Lee & Shepard. 1937.
- Plumb, Charles.* Paradise rejected: a study in war and society today. Pp. 104. London: Maclehose. 1937.
- Plummer, Alfred.* Raw materials or war materials? Pp. 144. London: Gollancz. 1937.
- Prevost, M. H.* Les commissions de l'assemblée de la société des nations. Pp. 284. Paris: Pedone.
- Redslob, Robert.* Les principes du droit des gens moderne. Pp. 280. Paris. A. Rousseau.
- Kovra, Jean de.* L'Europe sans Européens. Pp. 252. Paris: Flammarion Fils.
- Satser, Vernon G.* The commercial reciprocity policy of the United States, 1774-1829. Pp. 316. Phila.: Univ. of Pa. Press. 1937.
- Swcombe, George.* The dangerous sea. Pp. 286. N. Y.: Macmillan. 1937.
- Steube, Werner.* Die völkerrechtliche Garantie des Schutzes nationaler Minderheiten. Pp. 47. Düsseldorf: Nolte. 1936.
- Thompson, J. W., and Padover, S. K.* Secret diplomacy; a record of espionage and double dealing, 1500-1815. Pp. 286. London: Jarrolds. 1937.
- Uhlenbrock, Paul.* Das Völkerrecht der Staatsangehörigkeit. Pp. 92. Würzburg: Triltsch. 1936.
- Watt, W. M.* Can Christians be pacifists? Pp. 126. London: Student Christian Movement Press. 1937.
- Wissmann, Herbert.* Revisionsprobleme des Diktats von Versailles. Pp. 104. Berlin: Verl. f. Staatswissenschaften u. Geschichte. 1937.
- Witenberg, J. C.* L'organisation judiciaire, la procédure et la sentence internationales. Pp. 440. Paris: Pedone.
- Wheaton, Henry.* Elements of international law. Pp. 690. N. Y.: Oxford. 1937.
- Werbs, Helmut.* Das Schulrecht der deutschen Minderheit in der Tschechoslowakei. Pp. 113. Strehlen: Schwarzer. 1936.
- Wright, Quincy.* Diplomatic machinery in the Pacific area. Pp. 52. N. Y.: Inst. of Pacific Rels. 1936.
- Yckhontoff, Victor A.* The Russian empire and the soviet union in the far east. Pp. 30. N. Y.: American Russia Inst. 1936.
- Yepes, J. M.* Le panaméricanisme au point de vue historique, juridique, et politique. Pp. 180. Paris: Les Edit. Int.

Articles

- Adjudication. La force obligatoire des avis consultatifs de la cour permanente de justice internationale. *S. Engel.* Rev. Droit Int. et Légis. Comp. Vol. 17, no. 4. 1936.
- . La nature juridique des ordonnances de la cour permanente de justice internationale. *W. Rothholz.* Rev. Gén. Droit Aérien. Nov.-Dec., 1936.

———. International arbitral tribunals and the Mexican claims commissions. *John H. Percival*. Jour. Comp. Legis. and Int. Law. Feb., 1937.

———. The relations of the United States and Peru with respect to claims. 1822-1870. *Louis Clinton Nolan*. Hispanic Am. Hist. Rev. Feb., 1937.

———. Special claims commission, United States and Mexico. *Edgar Turlington*. Fed. Bar Assoc. Jour. Apr., 1937.

Africa. L'annexion de l'Éthiopie par l'Italie et le droit international. *Antoine Sottile*. Rev. Droit Int. Sci. Dipl. et Pol. Oct.-Dec., 1936.

———. French policy in north Africa and Syria. *M. Robert Montagne*. Affairs. Mar.-Apr., 1937.

———. Imperialist developments in Africa. *Constance Field Stecher*. Social Sci. Apr., 1937.

American Foreign Relations. The United States and world organization during 1936. Geneva Special Studies. Vol. 7, no. 9, 1936.

———. Executive discretion in the conduct of foreign relations. *James W. Garner*. Am. Jour. of Int. Law. Apr., 1937.

Armaments. The rising tide of armament. *W. T. Stone* and *Helen Fisher*. For Pol. Rep. Feb., 15, 1937.

———. The social foundations of the German armaments policy. *Wolfgang Hallgarten*. Rearmament. *Archibald Sinclair*. Contemp. Rev. Mar., Apr., 1937.

British Foreign Relations. Britain and imperial Italy. *Polson Newman*. English Rev. Mar., 1937.

———. England and Egypt. *Philip Marshall Brown*. Am. Jour. of Int. Law. Apr., 1937.

———. What England will fight for. *Eustace Percy*. Atlantic. May, 1937.

Canada. Mr. Mackenzie King's foreign policy, 1935-36. *Escott Reid*. Canadian Jour. Econ. and Pol. Sci. Feb., 1937.

Dantzig. La ville libre de Dantzig devant la cour permanente de justice internationale. *M. Joki*. Rev. Droit Int. et Legis. Comp. Vol. 17, no. 4. 1936.

Diplomacy. International democracy. *David Thomson*. Pol. Quar. Jan.-Mar., 1937.

———. Respect due to foreign sovereigns. *Ellery C. Stowell*. Am. Jour. of Int. Law. Apr., 1937.

Europe. Herr Hitler, Germany, and Europe. *S. A. H. Bull.* Int. News. Feb. 6, 1937.

———. Les commissions du Danube. ***. La nouvelle politique Européenne de l'Italie. *A. E. Guillaume*. Rev. Pol. et Parl. Feb., Mar., 1937.

———. The central European kaleidoscope. *W. Walter Crotch*. Nat. Rev. Mar., 1937.

———. The outlook in Europe. *Charles Hobhouse*. Germany and Geneva: a new settlement. *Maxwell Garnett*. Mr. Stalin at bay. *George Glasgow*. Common sense in central Europe. *F. S. Marvin*. Storm over northern Europe. *Joachim Joesten*. Contemp. Rev. Mar., Apr., 1937.

———. Belgium and Holland—isolated? *Elmer Davis*. Harper's, May, 1937.

———. The destiny of Europe. *An American*. Atlantic. May, 1937.

Far East. Germany and Japan. *Freda W. Ulley*. Pol. Quar. Jan.-Mar., 1937.

———. The German-Japanese alliance. *Tarnknath Das*. Modern Rev. Feb., 1937.

———. The meaning of the Japan-German pact. *Iwakusu Ida*. Our place in Siam's progress. *Yosukichi Yatabe*. The "perpetual" problem. *E. V. A. de Becter*. Contemp. Japan. Mar., 1937.

———. Japan and the far east. *Editors*. Britain's bulwark against Japan. *Ignatius Phayre*. Current Hist. Mar., 1937.

Inter-American Relations. Inter-American committee on electrical communications. *Irvin Stewart*. Air Law Rev. Oct., 1936.

———. The inter-American conference for the maintenance of peace. Int. Concil. Mar., 1937.

———. The results of the Pan-American peace conference. *A. S. de Bustamante*. New Commonwealth Rev. Mar., 1937.

———. The inter-American conference for the maintenance of peace. *Charles G. Fenwick*. The new treaties between the United States and Panama. *L. H. Woolsey*. Am. Jour. of Int. Law. Apr., 1937.

———. Exit the Monroe Doctrine. *Hubert Herring*. Harper's. Apr., 1937.

———. Pan America—peace and personnel. *Paul V. Shaw*. No. Am. Rev. Spring, 1937.

International Labor Organization. The twenty-first and twenty-second (maritime) sessions of the international labour conference. Int. Labour Rev. Feb., 1937.

International Law. Die Reform des Völkerbundes. *Ernst Wolgast*. Zeitschrift f. Völkerrecht. Vol. 20, no. 4. 1936.

———. American contributions to international law. *Ricardo J. Alfaro*. Bull. Pan Am. Union. Feb., 1937.

———. Zur Frage der Reform des Völkerbundes. *Carl Bilfinger*. New Commonwealth Rev. Mar., 1937.

International Trade and Finance. Die isländische Fischereigrenze. *Viktor Böhmert*. Zeitschrift f. Völkerrecht. Vol. 20, no. 4, 1936.

———. Ordonnancement financier international public. *Frans Donker-Curtis*. Rev. Int. Théorie Droit. Vol. 11, no. 1. 1937.

———. The international distribution of raw materials. *John C. De Wilde*. Bull. Int. News. Vol. 7, no. 5, 1936.

———. Économie et diplomatie. *Henri Hauser*. Rev. Pol. et Parl. Feb., 1937.

———. Food and politics. *Augur*. Nat. Rev. Mar., 1937.

———. Measurements of effects of reciprocal trade agreements. *E. Dana Durand*. Jour. Am. Statistical Assoc. Mar., 1937.

———. Wanted—a new economic conference. *D. Graham Pole*. Modern Rev. Mar., 1937.

———. War debts: a symposium. *H. C. Le Clair and Others*. Current Hist. Mar., 1937.

———. World trade and peace. *D. Graham Hutton*. Fortnightly. Mar., 1937.

———. British foreign policy in relation to the Lancashire cotton industry. *Barnard Ellinger*. Int. Affairs. Mar.-Apr., 1937.

League of Nations. Les origines idéologiques de la société des nations. *René Pinon*. L'Egypte Contemp. Dec., 1936.

———. The reform of the league of nations. *L.C.J.* Modern Rev. Feb., 1937.

———. Realities and Geneva. *Charles Emmott*. We have been warned. *Herbert Bryan*. Nat. Rev. Mar., 1937.

———. Geneva's future. *F. O. Wilcox*. Current Hist. Apr., 1937.

———. The coöperation of the United States with the league of nations, 1931-1936. *Ursula Phalla Hubbard*. Int. Concil. Apr., 1937.

Minorities. The German minority in Czechoslovakia. *S. A. H.* Bull. Int. News. Mar. 6, 1937.

Munitions. Proposed nationalization of munitions. *Symposium*. Cong. Digest. Apr., 1937.

Near East. France in Syria. *Paul Oldberg*. Towards Balkan unity. *Edward Bayle*. *Contemp. Rev.* Mar., Apr., 1937.

———. German influence in the Balkans. *Raymond Jackson*. *Fortnightly*. Mar., 1937.

Neutrality. Revision of neutrality. *R. A. MacKay*. *Univ. of Toronto Law Jour.* Vol. 2, no. 1, 1937.

———. Neutrality. *Edwin M. Borchard*. *Conn. Bar Jour.* Jan., 1937.

———. Can present legislation guarantee future neutrality? *F. R. Coudert*. *Int. Concil.* Feb., 1937.

———. Can we trade and avoid war? *Key Pittman*. *Nation's Bus.* Mar., 1937.

———. Neutrality and common sense *Bernard M. Baruch*. *Atlantic*. Mar., 1937.

———. The United States' neutrality legislation. *H. L. Bull.* *Int. News.* Mar. 20, 1937.

———. Neutrality laws of the United States. *Edward Dumbauld*. "Non-intervention," and personal freedom. *Ellery C. Stowell*. "Neutrality" and civil wars. *Edwin M. Borchard*. Neutrality legislation: 1937. *Philip C. Jessup*. *Am. Jour. of Int. Law.* Apr., 1937.

———. Neutrality legislation of 1937. *A. C. E. Va. Law Rev.* Apr., 1937.

Piracy. Responsibility for piracy in the middle ages. *Edward Lewis*. *Jour. Comp. Legis. and Int. Law.* Feb., 1937.

Sanctions. El proble de las sanciones y la soberania. *de Lasala Llanca*. *Rev. Droit Int. Sci. Dipl. et Pol.* Oct.-Dec., 1937.

Spain. European diplomacy in the Spanish crisis. *Vera Micheles Dean*. *Bull. Int. News.* Vol. 7, no. 8, 1936.

———. Foreign aims in Spain. *L. A. Fernsworth*. *Current Hist.* Mar., 1937.

———. Naval police in the Spanish war. *Herbert Richmond*. À propos de la non-intervention dans les affaires d'Espagne. *Georges Scelle*. *New Commonwealth Quar. Mar.*, 1937.

———. International law and the Spanish civil war. *Norman J. Padelford*. *Am. Jour. of Int. Law.* Apr., 1937.

———. Portugal's plight. *F. C. Hanighen*. Calling the fascist bluff. *G. E. R. Geyde*. *Current Hist.* Mar., Apr., 1937.

Straits. The Montreux straits convention. *Helen P. Kirkpatrick*. *Bull. Int. News.* Vol. 7, no. 6, 1936.

———. La nouvelle convention des détroits. *Fernand de Visscher*. *Rev. Droit Int. et Legis. Comp.* Vol. 17, no. 4. 1936.

Treaties. Ratification of labor treaties. *Wm. G. Rice, Jr.* *Am. Labor Legis. Rev.* Mar., 1937.

———. International law in treaties of the United States. *Robert R. Wilson*. Reservations to multipartite treaties. *Valentine Jobst III*. *Am. Jour. of Int. Law.* Apr., 1937.

———. The Clayton-Bulwer treaty. *George F. Howe*. *Am. Hist. Rev.* Apr., 1937.

War and Peace. Les illusions de la paix. *Vespasien V. Pella*. *Rev. Droit Int. Sci. Dipl. et Pol.* Oct.-Dec., 1937.

———. Pax. *O. Leimgruber*. *Rev. Int. des Sciences Admin.* Jan.-Mar., 1937.

———. Arms and peace. *Leonard Woolf*. *Political Quar.* Jan.-Mar., 1937.

———. The coming war. *Emil Ludwig*. *Current Hist.* Mar., 1937.

———. War in a collectivist world. *Walter Lippmann*. *Atlantic*. Mar., 1937.

———. Can war profits be eliminated? *Harold Tobin* and *R. L. Buell*. *For. Pol. Rep.* Apr. 1, 1937.

- . The problem of aggression and the prevention of war. *L. Kopelmanas*. Am. Jour. of Int. Law. Apr., 1937.
- . This war business. *Donald Attwater*. Catholic World. Apr., 1937.
- . The red road to war. *Harold L. Varney*. Am. Mercury. May, 1937.

JURISPRUDENCE

Books

- Baker, Joseph*. The law of political uniforms, public meetings, and private armies. Pp. 205. London: H. A. Just. 1937.
- Bass, Adah*. Girls in reform schools. Pp. 31. N. Y.: Social Action. 1936.
- Braas, Le Chevalier*. Précis de droit pénal. Pp. 400. Paris: E. Bruylant.
- Bradshaw, William L., and Garrison, Milton*. Township organization in Missouri. Pp. 70. Columbia (Mo.): Univ. of Mo. 1936.
- Cambreal, André*. Le jury criminel. Pp. 56. Paris: A. Rousseau.
- Crew, Albert, and Miles, E.* The law relating to public meetings and processions. Pp. 116. London: Pitman. 1937.
- Erhard, M.* Les concordats judiciaires et leur contrôle par la justice. Pp. 134. Paris: Libr. Gén. Droit et Juris.
- Garraud, P., and Laborde-Lacoste, M.* Précis élémentaire de droit pénal. Pp. 777. Paris: Sirey.
- Oberholzer, Max*. Die Scheidungsgründe des spanischen Rechts. Pp. 85. München: Schön. 1936.
- Olbermann, Albert*. Kriminalität des alternden Menschen. Pp. 77. Bonn: Scheur. 1936.
- Payen, Fernand*. La justice en danger? Pp. 96. Paris: Plon.
- Prestele, Carl*. Das "subjektive öffentliche Recht" im Wandel der Staats- und Rechtsidee. Pp. 65. Emsdetten (Westf.): Lechte. 1936.
- Ulm, Theodor*. Das richterliche Prüfungsrecht im neuen Staat. Pp. 49. Düsseldorf: Nolte. 1936.

Articles

- Codification. Compiling the territorial codes of Washington. *Arthur S. Beardsley*. Pacific No. West Quar. Jan., 1937.
- Coke. Courts of record and Sir Edward Coke. *S. E. Thorne*. Univ. of Toronto Law Jour. Vol. 2, no. 1, 1937.
- . Was Coke right? *Murray Seasongood*. Ind. Law Jour. Apr., 1937.
- Comparative Law. Recent studies on Chinese law. *Cyrus H. Peaks*. Pol. Sci. Quar. Mar., 1937.
- . La renonciation à un droit. *M. Pierre Raynaud*. Rev. Trimes. de Droit Civil. Oct.-Dec., 1936.
- . Les progrès du facteur collectif en droit français. *Jules Lautman*. Rev. Pol. et Parl. Mar., 1937.
- . Sur la notion de souveraineté du droit Romain. *M. A. Caspary*. Rev. Droit Pub. et Sci. Pol. Oct.-Dec., 1936.
- . Romantisme et droit civil. *J. Bonnetcase*. Rev. Gén. Droit Legis. et Juris. Oct.-Dec., 1936.
- . Influence of Mosaic law upon current legal systems. *L. Elliot Grafman*. John Marshall Law Quar. Mar., 1937.
- . The influence of ancient Mongol culture and law on Russian culture and law. *V. A. Riasanovsky*. Chinese Soc. and Pol. Sci. Rev. Jan., 1937.

———. Religione, morale e diritto in alcuni episode del Mahabharata. *M. Lasacco*. *Rev. Int. di Filos. del Diritto*. Jan.-Feb., 1937.

Conflict of Laws. Conflict of laws. *N. A. M. MacKenzie*. *Univ. of Toronto Law Jour.* Vol. 2, no. 1, 1937.

Crime. Combating of crime in soviet union. *N. Modern Rev.* Feb., 1937.

———. Liberal thought and undefined crimes. *Paul Weidenbaum*. *Jour. Comp. Legis. and Int. Law*. Feb., 1937.

———. The cost of crime. *E. C. McDowell, Jr.* *Current Hist.* Apr., 1937.

Criminal Law. Rationale of a criminal code. *Albert J. Harno*. *Univ. of Pa. Law Rev.* Apr., 1937.

———. Administration of the criminal law in Scotland; some characteristic features. *Lord Thankerton*. *Juridical Rev.* Mar. 1, 1937.

———. Extension of the "local criminal" concept. *F. B. T. Va. Law Rev.* Apr., 1937.

———. Reduction of criminal sentences on appeal. *Livingston Hall*. *Columbia Law Rev.* Apr., 1937.

———. La casualita nel diritto penale. *D. Rende*. *Riv. Int. di Filos. del Diritto*. Jan.-Feb., 1937.

Criminology. The development of criminological research in the soviet union. *Nathan Berman* and *E. W. Burgess*. *Am. Sociol. Rev.* Apr., 1937.

———. The Lombrosian myth in criminology. *Alfred LindeSmith* and *Yale Levin*. *Am. Jour. Soc.* Mar., 1937.

Declaratory Judgment. Courts—scope of declaratory judgment procedure in federal courts. *Minn. Law Rev.* Mar., 1937.

———. Declaratory decisions in criminal law. *Yale Law Jour.* Mar., 1937.

Delinquency. Juvenile delinquency, the family, and the court in the soviet union. *Nathan Berman*. *Am. Jour. Soc.* Mar., 1937.

———. The engineering approach to the delinquent and the criminal. *C. W. Topping*. *Sociol. and Soc. Research*. Mar.-Apr., 1937.

———. Juvenile delinquency and behavior patterning. *Walter C. Reckless*. *Research projects: tests for delinquency*. *Homer K. Moore*. *Jour. Educ. Soc.* Apr., 1937.

Grand Jury. Grand jury: power of court in Pennsylvania to direct a general investigation where no specific crime charged. *Herman J. Bloom*. *Mich. Law Rev.* Apr., 1937.

Judiciary. The federal judiciary: an analysis of proposed revisions. *Lynn I. Perigo*. *Minn. Law Rev.* Apr., 1937.

———. The selection of judges for Cook county: the Chicago bar association plan. *H. A. Gardner*, *H. M. Fisher*, and *E. M. Martin*. *Ill. Law Rev.* Mar., 1937.

———. Federal courts: jurisdictional amount in injunction suits in federal district courts. *Harold Epstein*. *Calif. Law Rev.* Mar., 1937.

———. Three judges, three lawyers, and three laymen. *R. P. Hudson*. *Mich. State Bar Jour.* Jan., 1937.

———. The error of electing judges. *Robert N. Wilkin*. *Tenn. Law Rev.* Apr., 1937.

———. The criminal courts. *D. S. Davies*. *Nine. Cent.* Apr., 1937.

Jury. Race or color discrimination in the selection of jurors. *C. M. Horton, Jr.* *Tulane Law Rev.* Apr., 1937.

———. Trial by jury. *M. R. Waite* and *Others*. *Univ. of Cincinnati Law Rev.* Mar., 1937.

Justice. Justice. *Gerhart Husserl*. *Int. Jour. of Ethics*. Apr., 1937.

- Law. On the statuality of law. *Giorgio del Vecchio*. Jour. Comp. Legis and Int. Law. Feb., 1937.
- . The doctrine of evasion of the law in England and America. *Ronald H. Graveson*. Jour. Comp. Legis. and Int. Law. Feb., 1937.
- . La faute dans le droit et la jurisprudence mixte. *Emile Totonqui*. L'Egypte Contemp. Dec., 1936.
- . Primitive law and Professor Malinowski. *William Seagle*. Am. Anthropologist. Apr.-June, 1937.
- Law Reform. A ministry of justice in action: the work of the New York state law revision commission. *Bernard E. Shientag*. Cornell Law Quar. Feb., 1937.
- Litigation. Trials in New York. *Philip J. McCook*. Conn. Bar Jour. Jan., 1937.
- . The problem of civil litigation. *Colin A. Cooke*. Nine. Cent. Apr., 1937.
- Maitland. Maitland reissued. *W. S. Holdsworth*. Yale Law Jour. Mar., 1937.
- Penology. Practicing the new penology. *J. H. Geohagan*. Sociol. and Soc. Research. Mar.-Apr., 1937.
- . Backgrounds of prisoners in the Wisconsin state prison and of their brothers. *John L. Gillin*. Am. Sociol. Rev. Apr., 1937.
- Philosophy of Law. Reforma del codice civile e principi generali di diritto. *Giorgio del Vecchio*. I lavori della seconda sessione dell'instituto internazionale di filosofia del diritto. *A. Levi*. Rev. Int. di Filos. del Diritto. Jan.-Feb., 1937.
- . La sécurité en droit d'après la théorie anglaise. *Gustav Radbruch*. De l'essence du droit. *Auguste Dumas*. Archiv. Philos. du Droit et Sociol. Jurid. Vol. 6, nos. 3-4, 1936.
- . Les doctrines interprétatives du droit. *M. T. Toutzakovich*. Rev. Gén. Droit Légis. et Juris. Oct.-Dec., 1937.
- . Recht und Realdialektik. *Hans Herz*. Das Ideologieproblem und die reine rechtslehre. *Hans Mayer*. Rev. Int. Théorie Droit. Vol. 11, no. 1. 1937.
- . Kelsen's theory of law. *Henry Janzen*. Am. Pol. Sci. Rev. Apr., 1937.
- Procedure. The rôle of courts and judicial councils in procedural reform. *Sam B. Warner*. Univ. of Penn. Law Rev. Mar., 1937.
- . Criminal procedure. *G. A. Martin*. Univ. of Toronto Law Jour. Vol. 2, no. 1, 1937.
- . Criminal pleadings and procedure. *U. W. Sprague*. Mich. State Bar Jour. Nov., 1936.
- . Federal rules of civil procedure: some problems raised by the preliminary draft. *James W. Moore*. Georgetown Law Jour. Mar., 1937.
- . The preliminary draft of federal rules of civil procedure. *Werner Ilsen*. St. John's Law Rev. Apr., 1937.
- Stare Decisis. The doctrine of stare decisis in British courts of last resort. *John A. Fairlie*. Mich. Law Rev. Apr., 1937.
- Statutory Interpretation. Effect of legislative history on judicial decision. *Kenmore M. McManes*. George Washington Law Rev. Jan., 1936.
- . Legislative materials to aid statutory interpretation. *Harvard Law Rev.* Mar., 1937.
- . Admissibility of congressional debates in statutory construction by the United States supreme court. *Jacobus ten Broek*. Calif. Law Rev. Mar., 1937.

LOCAL GOVERNMENT

Books

- Black, Russell Van Nest, and Black, Mrs. Mary Hedges*. Planning for the small American city. Pp. 90. Chicago: Pub. Admin. Service. 1936.

Keelan, Patrick F. City government of Elizabeth, New Jersey. Pp. 55. Elizabeth (N. J.): Colby & McGowan. 1936.

Local government in New Jersey: the budget process in local government. Pp. 37. Princeton (N. J.): Princeton Univ. Press. 1936.

Local government in New Jersey: the thorny question of personnel. Pp. 47. Princeton (N. J.): Princeton Univ. Press. 1937.

Palmer, Gladys L., and Wood, Katherine D. Urban workers on relief. Pp. 230. Wash.: Works Progress Admin. 1936.

Articles

Accounting. Progress toward accepted principles of municipal accounting. *Lloyd Morey*. Jour. Accounting. Feb., 1937.

City Government. The rôle of facts in city administration. *Albert Lepawsky*. Pub. Management. Apr., 1937.

———. Administrative short cuts in small municipalities. *F. N. Macmillan*. Municipality. Apr., 1937.

———. Planning to meet major disasters. *Winston W. Crouch*. How Cincinnati met the flood. *Fred K. Hoshler*. Piloting cities through high waters. Development of measurement standards. Measuring fire department activities. *Clarence E. Ridley and Herbert A. Simon*. Pub. Management. Mar., Apr., 1937.

City Manager. Progress under the city manager plan. *C. K. Matson*. Nat. Mun. Rev. Mar., 1937.

———. Looking back at city managers twenty years hence. *Richard I. Childs*. Pub. Management. Mar. 1937.

County. The organization and functions of county boards in Indiana. *Clyde F. Snider*. Ind. Law Jour. Apr., 1937.

Finances. An experiment in municipal refinancing: Ashton v. Water Improvement District. *W. C. Sauer*. George Washington Law Rev. Nov., 1936.

———. Financial problems confronting Wisconsin local governments. Municipality. Feb., 1937.

———. Indebtedness of Minnesota municipalities. *Robert Bast*. Minn. Municipalities. Mar., 1937.

———. Indiana municipal revenue bond financing. *Adolph H. Zwerner*. Ind. Law Jour. Apr., 1937.

———. State control of dissenting minority creditors in municipal debt readjustments. Harvard Law Rev. Apr., 1937.

Garbage. Garbage and refuse collection and disposal. *E. F. Staphley*. Okla. Mun. Rev. Jan., 1937.

———. Removal and disposal of rubbish and garbage in Texas cities. Tex. Municipalities. Mar., 1937.

Home Rule. Municipal home rule in New York. *Joseph L. Weiner*. Columbia Law Rev. Apr., 1937.

———. Municipal home rule in Wisconsin. *Robert W. Hansen*. Marquette Law Rev. Feb., 1937.

———. Municipal corporations: constitutional home rule. *Charles M. Kneier*. Mich. Law. Rev. Mar., 1937.

———. St. Louis county's proposed home rule amendment. *H. W. Stone*. Nat. Mun. Rev. Mar., 1937.

London. London and the L. C. C. election. *William A. Robson*. Pol. Quar. Apr.-June, 1937.

———. The London county council under labor rule. *D. E. McHenry*. Nat. Mun. Rev. Mar., 1937.

Metropolitan Government. Extraterritorial powers of cities as factors in California metropolitan government. *Winston W. Crouch*. Am. Pol. Sci. Rev. Apr., 1937.

Municipal Law. Municipal corporations: power of municipal utility districts to issue revenue bonds. *Abraham Gorenfield*. Southern Calif. Rev. Mar., 1937.

New York. New York charter. *Luther Gulick*. Local Govt. Admin. Mar., 1937.

Personnel. Housing inspection personnel. *Sydney Malsen*. Nat. Mun. Rev. Mar., 1937.

Planning. Opportunities for city planning suggested by Mr. Delano's "tentative program." *Paul Oppermann*. Jour. Land and Pub. Utility Econ. Feb., 1937.

———. The potential usefulness of plan commissions from the citizens' viewpoint. *C. H. Buenger*. A plotting manual for Wisconsin municipalities. *A. J. Rabuck*. Municipality. Apr., 1937.

Public Ownership. Legal problems confronting municipal ownership. *B. E. Hughes*. Minn. Municipalities. Jan., 1937.

Public Relations. Advertising local government in England. *L. Hill*. Public Opinion Quar. Apr., 1937.

Public Works. The validity of federal loans and grants to municipalities for construction of power plants. *Francis X. Welch*. Georgetown Law Jour. Mar., 1937.

———. The development of financing public improvements by Kentucky municipalities. *George W. Meuth*. Ky. Law. Jour. Mar., 1937.

Rio de Janeiro. Rio de Janeiro, une grande victoire urbaine. *Pierre Deffontaines*. Rev. Econ. Pol. Jan.-Feb., 1937.

Transportation. The street railways come to. *Cliff Hall*. Pub. Util. Fort. Apr. 15, 1937.

Water Supply. Waterworks: financing and rates. *C. C. Ludwig*. Minn. Municipalities. Apr., 1937.

Welfare. Public assistance in relation to municipal welfare problems. *Zilpha C. Franklin*. Nat. Mun. Rev. Mar., 1937.

POLITICAL THEORY AND MISCELLANEOUS

Books

Abercrombie, Patrick. Planning in town and country. London: Univ. Press of Liverpool. 1937.

American Public Health Assoc. Seventh annual year book, 1936-1937. Pp. 204. N. Y.: Am. Pub. Health Assoc. 1937.

Armstrong, Hamilton Fish. We or they: two worlds in conflict. Pp. 103. N. Y.: Macmillan. 1937.

Ascoli, Max, and Lehmann, Fritz, eds. Political and economic democracy. Pp. 336. N. Y.: Norton, 1937.

Baby, Jean, and Others. Cours de marxisme. Pp. 128. Paris: Bureau d'Editions.

Bear, Robert M. The social functions of education. Pp. 447. N. Y.: Macmillan. 1937.

Beracha, S. Le marxisme après Marx. Pp. 224. Paris: M. Rivière.

Bernheim, Alfred L., ed. Big business; its growth and its place. Pp. 117. N. Y.: Twentieth Century Fund. 1937.

Bonbright, James Cummings. The valuation of property. Pp. 1302. N. Y.: McGraw-Hill. 1937.

Bonnett, Clarence E. The labor problem. N. Y.: Nelson. 1937.

Brayshaw, Shirley N. The total abolition of unemployment. Pp. 48. London: Allen & Unwin. 1937.

Brindze, Ruth. Not to be broadcast; the truth about the radio. Pp. 310. N. Y.: Vanguard. 1937.

Chamberlin, William Henry. Collectivism; a false utopia. Pp. 271. N. Y.: Macmillan. 1937.

Denys, Odet. Manuel pratique de la liberté individuelle. Pp. 129. Paris: Sirey. Essays in history and political theory in honour of Charles Howard McIlwain. Pp. 371. London: Oxford Univ. Press. 1937.

Foster, William Z. From Bryan to Stalin. Pp. 352. N. Y.: Int. Publishers. 1937.

Gold, Michael. Change the world! Pp. 272. London: Lawrence & Washbourne 1937.

Goslin, Phyllis C. A. Coöperatives. Pp. 46. N. Y.: For. Pol. Assoc. 1937.

Gullan, Roger, and Roberts, B. Where's that bomb? Pp. 34. London: Lawrence & Washbourne. 1937.

Hall, R. L. The economic system in a socialist state. Pp. 278. London: Macmillan. 1937.

Hawtrey, Ralph G. Capital and employment. Pp. 359. N. Y.: Longmans. 1937.

Hearnshaw, F. J. C. The development of political ideas. Pp. 152. London: Nelson. 1937.

Hoyland, John S., ed. Experiments in social reconstruction. Pp. 125. London: Allenson. 1937.

Joint Conference on Planning. Planning for city, state, region, and nation; proceedings of the joint conference on planning, May 4, 5, and 6, 1936, Richmond, Va. Pp. 178. Chicago: Am. Soc. of Planning Officials. 1936.

Kautsky, Karl. The economic doctrines of Karl Marx. Pp. 252. N. Y.: Macmillan. 1937.

Korngold, Ralph. Robespierre, first modern dictator. Pp. 415. London: Macmillan. 1937.

La Farge, John. Interracial justice. Pp. 238. N. Y.: American Press. 1937.

Le Sauz, M. Pour qu'il n'y ait plus jamais de chômage. Pp. 421. Paris: Libr. Gén. Droit et Juris.

Lee, Murray G. The government's hand in business. N. Y.: Baker, Voorhis and Co. 1937.

Leigh, Robert D. Modern rules of parliamentary procedure. Pp. 106. N. Y.: Baker, Voorhis and Co. 1937.

Lenin, Nikolai. The letters of Lenin. Pp. 505. N. Y.: Harcourt. 1937.

Leydet, Victor. Le syndicat de communes. Pp. 322. Paris: Libr. Tech. et Écon.

Lohmann, Karl B. Regional planning. Pp. 143. Ann Arbor (Mich.): Edwards Bros. 1936.

Lynd, Robert Staughton, and Lynd, Mrs. Helen Merrell. Middletown in transition; a study in cultural conflicts. Pp. 622. N. Y.: Harcourt. 1937.

MacKenzie, Findley, ed. Planned society. Pp. 890. N. Y.: Prentice-Hall. 1937.

Mauriac, François, and Others. Le communisme et les chrétiens. Pp. 280. Paris: Plon.

Meneault, Marcel. Vers un ordre nouveau. Pp. 224. Paris: Dillen.

Morgen, Konrad. Kriegspropaganda und Kriegsverhütung. Pp. 144. Leipzig: Noske. 1936.

Moulin, Léo. De Robespierre à Lénine. Pp. 108. Paris: Ed. Labor et M.L.F.

Noyes, Pierpont B. My father's house; an Oneida boyhood. Pp. 322. N. Y.: Farrar & Rinehart. 1937.

Overstreet, Harry A. A declaration of interdependence. Pp. 284. N. Y.: Norton. 1937.

Pearson, Hesketh. Tom Paine, a friend of mankind: a biography. Pp. 318. London: H. Hamilton. 1937.

Pfister, Georg. Adam Müllers Kritik am Liberalismus. Pp. 86. Borna-Leipzig: Noske. 1936.

Riese, Hans. Die wichtigsten Erscheinungen staatsrechtlicher Mitwirkung von politischen Teilgewalten bei der Reichsleitung. Pp. 101. Bückeberg: Prinz. 1936.

Rochester, Anna. Rulers of America; a study of finance capital. Pp. 367. London: Lawrence & Washbourne. 1937.

Rugg, Harold O. Changing governments and changing cultures. Pp. 764. Boston: Ginn. 1937.

Sabine, George H. A history of political theory. N. Y.: Holt. 1937.

Schmidt, Emerson P. Man and society. Pp. 825. N. Y.: Prentice-Hall. 1937.

Schujler, William M., and Hart, Albert B., eds. The American year book. Pp. 1000. N. Y.: Nelson. 1937.

Striessow, Hans. Bodins Staatslehre. Pp. 82. Glückstadt i. H.: Kock. 1936.

Sutherland, E. H., and Locke, H. J. Twenty thousand homeless men; a study of unemployed men in the Chicago shelters. Pp. 208. Phila.: Lippincott. 1936.

Talmadge, Irving D. W., ed. Pushkin: homage by Marxist critics. Pp. 104. N. Y.: Critics Group. 1937.

Thomas, William I. Primitive behavior: an introduction to the social sciences. Pp. 857. London: McGraw-Hill. 1937.

Underhill, Francis. Liberty. Pp. 64. London: Mowbray. 1937.

Weisbord, Albert. The conquest of power; liberalism, anarchism, syndicalism, socialism, fascism, and communism. Pp. 1226. N. Y.: Covici, Friede. 1937.

What is Leninism? Pp. 124. N. Y.: Int. Publishers. 1936.

White, M. I. Pros and cons: a newspaper-reader's and debater's guide to the leading controversies of the day. Pp. 211. London: Routledge. 1937.

Articles

Capitalism. Une économie politique sans doctrines. *Jean Lescure.* Rev. Econ. Pol. Jan.-Feb., 1937.

———. The restoration of property. *A. J. Penty.* Am. Rev. Feb., 1937.

———. The war of the machines. *D. Marshall.* Catholic World. Mar., Apr., 1937.

———. Further thoughts on planning in industry. *I. M. Horobin.* Contemp. Rev. Mar., 1937.

———. Our backward thinkers. *Alice Beal Parsons.* Harper's. Mar., 1937.

Church and State. Church and state: their future relationship. *Victor Raskes.* Barchester revisited. *Norman Sykes.* Nine. Cent. Apr., 1937.

Classes. What are social classes? *C. C. North.* Jour. Soc. Philos. Apr., 1937.

Communism. The Catholic answer to communism. *Paul Kintery.* Catholic World. Mar., 1937.

———. Trotskyism in the United States. *C. A. Hathaway.* Communist. Mar., 1937.

———. The cost of communism. *Robert Bryon.* Am. Mercury. May, 1937.

———. The anti-Bolshevist front. *H. Wickham Steed.* Int. Affairs. Mar.-Apr., 1937.

Contemporary Politics. A certain moderation. *J. A. Spender.* Fortnightly. Apr., 1937.

———. Public order. *Ivor Jennings.* Political Quar. Jan.-Mar., 1937.

Coöperation. In defense of coöperatives. *C. T. Jackson.* Atlantic. Mar., 1937.

———. Les actes compromissaires concurrents. *C. G. Tenekidès*. Les formes politiques de coopération entre peuples de civilisation différente. *Yves de la Brière*. *Rev. Droit Int. et Légis. Comp.* Vol. 17, no. 4, 1936.

Democracy. The lawyer and democracy. *Charlton Ogburn*. *United States Law Rev. Mar.*, 1937.

———. La nature et les formes de la démocratie. *Gerhard Leibholz*. *Archiv. Philos. du Droit et Sociol. Jurid.* Vol. 6, nos. 3-4, 1936.

———. Jeffersonian democracy. *Herbert Harris*. *Current Hist.* Apr., 1937.

———. Sanctions in a democratic society. *C. F. Taussch*. *Jour. Soc. Philos.* Apr., 1937.

Depressions. Controlling booms and depressions. *Marriner S. Eccles*. *Fortune*. Apr., 1937.

———. Our depressions: their causes and cures. *Alvah L. Stinson*. *Law Soc. Jour.* Feb., 1937.

———. Must we have another boom? *Sumner H. Slichter*. *Atlantic*. May, 1937.

Dictatorships. Dictatorship and property. *Calvin B. Hoover*. *Va. Quar. Rev.* Spring, 1937.

Education. The higher learning in a democracy. *Charles E. Clark*. *Philosophy, politics, and education: our basic dilemma*. *W. P. Warren*. Higher education: symposium. *Charner Perry and Others*. *Int. Jour. of Ethics*. Apr., 1937.

Erasmus. The social program of Desiderius Erasmus. *Lester K. Born*. *Jour. Soc. Philos.* Apr., 1937.

Fascism. Fascism: its cause and cure. *Douglas Jerrold*. *Nine. Cent.* Apr., 1937.

Keynes. Unemployment and Mr. Keynes's revolution in economic theory. *F. H. Knight*. *Canadian Jour. Econ. and Pol. Sci.* Feb., 1937.

Liberty. Freedom in the modern world. *John A. Ryan*. *Jour. Soc. Philos.* Jan., 1937.

———. The struggle against criminal syndicalist laws. *Anna Damon*. *Communist*. Mar., 1937.

———. Political liberty today. *T. V. Smith*. *Am. Pol. Sci. Rev.* Apr., 1937.

Mackenzie. The political ideas of William Lyon Mackenzie. *R. A. MacKay*. *Canadian Jour. Econ. and Pol. Sci.* Feb., 1937.

Nationalism. The agricultural basis of emotional nationalism. *Carl J. Friedrich*. *Public Opinion Quar.* Apr., 1937.

Nature of the State. Intorno alla dottrina generale dello stato. *Renato Treves*. *Riv. Int. di Filos. del Diritto*. Jan.-Feb., 1937.

———. Totalitarian clouds. *Bertram Morris*. *Sewanee Rev.* Apr.-June, 1937.

Odum. Howard Odum and the sociological proteus. *Donald Davidson*. *Am. Rev.* Feb., 1937.

Pallieri. La doctrine dualiste chez Balladore Pallieri. *Joseph L. Kunz*. *Rev. Int. Théorie Droit*. Vol. 11, no. 1, 1937.

Planning. An approach to regional planning. *V. B. Stanbery*. *Commonwealth Rev.* Jan., 1937.

———. The present status of economic planning: the problems involved. *W. P. Martin*. *Int. Labour Rev.* Feb., 1937.

Power. Le pétrole et la puissance: l'exemple français. *Laurent Eynac*. *Rev. Econ. Int.* Jan., 1937.

———. Power, ancient and modern. *Bertrand Russell*. *Political Quar.* Apr.-June, 1937.

Press. Courts and the press. *William M. Mallbie*. *Conn. Bar Jour.* Oct., 1936.

———. Press vs. government: a warning. *Arthur Krock*. *Centralizing press re-*

leases of the government. *Richard E. Saunders*. Vermont leads Maine and the nation. *James P. Taylor*. Public Opinion Quar. Apr., 1937.

Public Opinion. Banking and public opinion. *Gurden Edwards*. Human interest stories and democracy. *Helen MacGill Hughes*. Public opinion and the study of history. *Merle Curti*. Public relations in steel. *Samuel S. Stratton*. Organizing American public opinion for peace. *Elton Atwater*. Public opinion and the motion picture. *Martin Quigley*. Public Opinion Quar. Apr., 1937.

———. Our public opinion. *Hiro-o Sassa*. Contemp. Japan. Mar., 1937.

———. Public opinion and mutual assistance among the Montagnais-Naskapi. *J. E. L'eps*. Am. Anthropologist. Apr.-June, 1937.

———. The group in terms of propaganda. *James E. Foster*. Am. Sociol. Rev. Apr., 1937.

Reform. Sociology and social reform. *Charles N. Reynolds*. Translation of social theory into social legislation. *George B. Mangold*. Sociol. and Soc. Research. Mar.-Apr., 1937.

———. Biology and social reform. *H. S. Jennings*. Jour. Soc. Philos. Jan., 1937.

Research. A criticism of factor analysis as a technique of social research. *P. H. Furfey* and *J. F. Daly*. Am. Sociol. Rev. Apr., 1937.

———. Research trends in political science. *Herman C. Beyle*. Public Opinion Quar. Apr., 1937.

Revolution. State and revolution in the Paris commune, the Russian revolution, and the Spanish civil war. *F. Borkenau*. Sociol. Rev. Jan., 1937.

Rousseau. L'idée de volonté générale chez J. J. Rousseau et ses antécédents historiques. *Paul-L. Léon*. Archiv. Philos. du Droit et Sociol. Jurid. Vol. 6, nos. 3-4, 1936.

Social Science. Improvement of scholarship in the social sciences. *Pitirim A. Sorokin*. Jour. Soc. Philos. Apr., 1937.

———. Social science in the liberal arts college. *O. C. Carmichael*. Social Sci. Apr., 1937.

Statistics. Statistics and social engineering. *Joseph S. Davis*. Jour. Am. Statistical Assoc. Mar., 1937.

Symbols. Logomachy and administration. *E. P. Herring*. Jour. Soc. Philos. Jan., 1937.

GOVERNMENT PUBLICATIONS

MILES O. PRICE

Law Library, Columbia University

AMERICAN

UNITED STATES

Congress

House of representatives. Constitution, Jefferson's manual, and rules of House of representatives, 75th Congress; compiled by Lewis Deschler. Washington: Govt. Ptg. Off., 1937. xiii-719 p.

———. Platforms of the two great political parties, 1856-1928; compiled by Leroy D. Brandon. Rev. ed. Washington: Govt. Ptg. Off., 1936. 334 p.

———, 1932, and 1936; compiled by Leroy D. Brandon, Washington: Govt. Ptg. Off., 1936. 335-404 p.

——— *Select committee to investigate old age pension plans and organizations.* Report, pursuant to H. Res. 443 (74th Cong., 1st Sess). Washington: Govt. Ptg. Off., 1937. 84 p. This report relates to the Townsend pension plan, and contains both minority and majority opinions.

Senate. Senate manual containing standing rules and orders of Senate, Constitution of United States, Declaration of Independence, Articles of Confederation, Ordinance of 1787, Jefferson's manual, etc. (Rev. ed.) Washington: Govt. Ptg. Off., 1936. 745 p.

——— *Education and labor committee.* Violations of free speech and assembly and interference with rights of labor, hearings before subcommittee, 74th Congress, 2d session, on S. Res. 266, to investigate violations of right of free speech and assembly and interference with right of labor to organize and bargain collectively. Rev. ed., with index. Washington: Govt. Ptg. Off., 1936. 362 p.

——— *Foreign relations committee.* Neutrality, hearing, 75th Cong., 1st sess., relative to proposed legislation on neutrality, Feb. 13, 1937. Washington: Govt. Ptg. Off., 1937. 25 p.

——— *Select committee on investigation of executive agencies of government.* Investigation of executive agencies of government, report . . . pursuant to Senate resolution 217 (74th Cong.): No. 1, Report on government financial agencies, prepared by Brookings Institution. Washington: Govt. Ptg. Off., 1937. 36 p.

Special committee investigating munitions industry. Hearings, 74th Cong., 2d. sess., pursuant to S. Res 206 (73d Cong.), to make certain investigations concerning manufacture and sale of arms and other war munitions. Washington: Govt. Ptg. Off., 1937. pts 25-35.

Constitution Sesquicentennial Commission

High courts of the world and their powers, table comparing high courts of the world with Supreme Court of United States in relation to their power to pass upon constitutionality of legislative acts. Washington: Govt. Ptg. Off., 1937. 4 p.

Labor Department

Women's bureau. State labor laws for women, house, homework, prohibited or regulated occupations, seats, minimum wage; by Florence P. Smith. Washington: Govt Ptg. Off., 1937. 96 p. (Bulletin 144).

Library of Congress

Bibliography division. Immigration and its restriction in United States, selected list of recent writings; compiled by Anne L. Baden. Washington. 1937. 86 p. (processed).

National Resources Committee

State planning, programs, and accomplishments, Dec., 1936 (with bibliography, state and regional planning publications, and reports). Washington: Govt. Ptg. Off., 1937. 128 p.

President of the United States

Recommendation to reorganize judicial branch, message from President . . . transmitting recommendation to reorganize judicial branch of Federal Govern-

ment (with letter from Attorney-General recommending same). Feb. 5, 1937. Washington: Govt. Ptg. Off., 1937. 11 p.

President's Committee on Administrative Management

Administrative management in government of United States. Report of the president's committee, with message of transmittal . . . Washington: Govt. Ptg. Off., 1937. 84 p.

Tariff Commission

United States-Philippine trade, with special reference to Philippine independence act and other recent legislation, under general provisions of sec. 332, pt. 2, title 3, tariff act of 1930. Washington: Govt. Ptg. Off., 1937. 215 p.

Works Progress Administration

This Administration has issued for Alabama, Georgia, Indiana, Iowa, Kansas, Massachusetts, Missouri, New Jersey, North Dakota, and South Dakota analyses of constitutional provisions affecting public welfare, in loose leaf form and processed for insertion in a binder. It has also issued a digest of public welfare provisions under the laws of most of the states in the same manner and form.

STATE AND TERRITORIAL

As will be noted from the following list, most state publications of interest to political scientists now deal with taxation—new sources, administration, etc.

CALIFORNIA

University of California at Los Angeles. Regulation of public utility security issues in California, by Dudley F. Pegrum. Berkeley, 1936. 151-222 p. (Publications of the University of California at Los Angeles in social sciences, v. 6, no. 2.)

MINNESOTA

Legislative tax commission of investigation and inquiry. Report of the legislative tax commission . . . St. Paul, 1937. 136 p.

MISSOURI

University of Missouri, Columbia. Township organization in Missouri, by William L. Bradshaw . . . and Milton Garrison. Columbia, 1936. 70 p. (University of Missouri studies, v. 11, no. 4.)

NEW YORK

Dept. of taxation and finance. Division of taxation. Answers by American professors of public finance to questionnaire on taxation, with special reference to the relationships of the federal tax system on the one hand and of the state-and-local on the other. Albany, 1936. 7 p.

Legislature. Joint committee to study the advisability of authorizing local taxation of state property. Report . . . Albany, 1936. 22 p.

Tax commission. Town-administered special districts and the control of local finance in New York, by Daniel T. S. Selko. Albany, 1936. 175 p.

NORTH CAROLINA

Emergency relief administration. Emergency relief in North Carolina. A record of the development and the activities of the North Carolina emergency relief administration, 1932-1935. Raleigh, 1936. 544 p.

NORTH DAKOTA

Tax survey commission. This commission has made a number of reports to the legislature on various aspects of taxation and administration. Report no. 7 is a survey report of the whole, including a summary of findings and recommendations. Bismarck, 1936. 175 p.

OKLAHOMA

Tax commission. Compiled Oklahoma tax laws, annotated 1936, edited by Frank O. Eagin. Oklahoma City, 1937. 926 p.

OREGON

State planning board, Portland. County planning in Oregon, 1935-36. A report from consultant and staff to the state planning board . . . Portland, 1936. 60 p.
University of Oregon, Eugene. Bureau of municipal research and service. Memorandum on factors involved in the distribution of gasoline tax and motor vehicle license revenues to the cities of Oregon for street maintenance . . . Eugene, 1936. 44 p. (mim.)

——— Memorandum on financing local improvements in Oregon, by William O. Hall. Eugene, 1936. 34 p. (mim.)

TEXAS

University of Texas. Nationalization of munitions, by Thomas A. Rousse. Austin, 1936. 220 p.

——— *Bureau of municipal research.* Urban local government in Texas, by Roscoe C. Martin, Austin, 1936. 357 p. (Municipal Studies of the University of Texas, no. 7).

WEST VIRGINIA

West Virginia University, Morgantown. Division of Documents. First report of the archivist . . . with a descriptive list of manuscript collections. Morgantown, 1936. 24 p.

FOREIGN AND INTERNATIONAL

CZECHOSLOVAKIA

Minister of foreign affairs. Czechoslovakia and the international situation at the beginning of 1937. Prague, 1937. 51 p.

GERMANY

Auswärtiges amt. La politique extérieure de l'Allemagne, 1870-1914. Tome 28. Berlin, 1937.

Marine-archiv, Berlin. Der krieg zur see, 1914-1918. Der kreuzerkrieg in den ausländischen gewässern . . . bearbeitet von Eberhard v. Mantey. Berlin, 1937.

MANCHOUKUO

Department of foreign affairs. General survey of conditions in Manchoukuo, with special emphasis on economic developments. Second revision. Hsinking, 1936. 59 p.

NETHERLANDS

Rijks geschiedkundige publicatien. Briefwisseling van Hugo Grotius, uitgeven door Dr. P. C. Molhuysen. Tweede deel. The Hague, Nijhoff, 1936. 527 p. (The first part was published in 1928. These letters are of importance to Grotius students.)

SPAIN

Committee of investigation appointed by the national government at Burgos. A preliminary official report on the atrocities committed in southern Spain in July and August, 1936, by the Communist forces of the Madrid government. Burgos, 1936.

SWEDEN

Rikslagen. Sveriges riksdag: historisk och statsvetenskaplig. Senare advelningen, bd 9. Stockholm, 1937.

UNION OF SOVIET SOCIALIST REPUBLICS

Kosstariat justitii. Report of the court proceedings in the case of the anti-soviet Trotskyite centre. Moscow, 1937. 580 p. (Also in French, 603 p., and German, 635 p.)

INTER-AMERICAN CONFERENCE, BUENOS AIRES, 1936

Index to plenary sessions and committee meetings as published in the "Diario." Buenos Aires, 1936.

INTERNATIONAL JOINT COMMISSION (U. S. AND CANADA), 1909

Organization and work of the International joint commission, by George W. Kyte. Ottawa, Patenaude, 1937. 14 p.

INTERNATIONAL STUDIES CONFERENCE. 7TH, PARIS, 1934

Collective security. A record of the seventh and eighth international studies conferences. Paris, Internat. Inst. of Intellectual Coöperation, 1936. 514 p.

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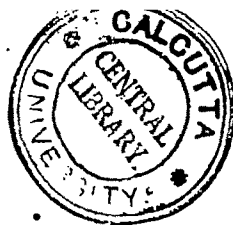
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LAW AND SOVEREIGNTY

J. ROLAND PENNOCK

Swarthmore College

Political theorists have spilt much ink in controversies over "sovereignty," while probably even more effort has been devoted to discussion of the nature of law. It cannot be said that the result of all this activity has been to produce a body of generally accepted doctrine, or even that it has greatly clarified the field of discussion. On the contrary, misunderstandings and the abuse of terms have contributed greatly to a general fog.

The real issue raised by the pluralists¹ is much more than a question of logic. They challenge the premises of their opponents.² They deal largely with the question of the limits of political obligation. With that we are not here concerned. The primary purpose of this article is to search for a meaning of "law" that will at once contribute to the clarification of the question as to the nature of law and aid in the determination of the most helpful legal signifi-

¹ It is not implied that all of the confusion arises from the differences between pluralists and monists. The latter disagree among themselves. Some treat law as the product of "sanction," while others insist that it must be based upon nothing but an "initial hypothesis;" some locate sovereignty in the amending power, while others hold that the constitution is anterior to sovereignty; some assert that there is an important difference between "legal" and "political" sovereignty, while others maintain that such a distinction is "simply the nineteenth century form of an ancient confusion of thought." C. H. McIlwain, "Sovereignty Again," *Economica*, Vol. 6 (1926), pp. 253-268, at p. 257. For other examples of the variety of views suggested above, see W. W. Willoughby, *Fundamental Concepts of Public Law* (New York, 1931), *passim*, and especially pp. 71-72, and 145-147; T. E. Holland, *The Elements of Jurisprudence* (10th edition, New York, 1906), p. 16; Hans Kelsen, "Les Rapports de system entre le droit interne et le droit international public," in *Recueil des Cours*, Vol. 14 (1926), pp. 231-329.

² Thus even Mr. Laski now admits, that "any criticism of the pure theory of law . . . is an endeavor to change its postulates because of a dislike of the results to which they formally lead." *The State in Theory and Practice* (New York, 1935), p. 19.

tion of the term "sovereignty."³ The accomplishment of this purpose should aid in settling the incidental questions of the nature of "constitutional law," the possibility of "nullifying" law, and the status of "international law."

The two subjects—law and sovereignty—are frequently treated independently, but they are so inter-related as to render such treat-

* Mr. Douglas W. Campbell, in an article entitled "Sovereignty and Social Dynamics" in this Review (Vol. 28, pp. 825-837), has approached the same problem—or at least the latter half of it—by attempting a redefinition of "sovereignty." Mr. Campbell sees clearly that in common usage the word "sovereignty" is used to include at least two different meanings, and that the resulting confusion accounts for much of the controversy over the term. His solution is to attempt the formulation of a definition that includes all elements. I must confess that I do not believe he has succeeded. Furthermore, I doubt whether success along that line is possible. He himself points out the difference between what the jurists are trying to do and what the realists are interested in, and, in the quotation from Professor Dickinson (p. 831), gives the basis for the juristic attempt. Experience tells us, however, declares Mr. Campbell, that in fact the ascription to sovereignty of even legal omnipotence will drive certain thinkers, such as Mr. Laski, to define sovereignty in terms of power instead of form.

The fact seems to remain, however, that Mr. Willoughby and Mr. Laski are talking about different things; and it is impossible to avoid this difficulty by trying to concoct a definition that includes them both. This observation, I believe, is borne out by Mr. Campbell's definition. "Sovereignty," he states, "is that power within a social unit which decides between the rules and regulations which the organization, and force, of the social unit as a unit will sponsor—that is, which both organizes a social unit into a working political unit and denotes that it is a working political unit." Clearly this does not accomplish the purpose of the jurists, and consequently it will drive them to further controversy, just as their definitions stimulate Mr. Laski. In the first place, the very definition of sovereignty as "power" does violence to the juristic concept of it as "legal authority." Furthermore, the definition is inherently incapable of giving to the concept that element which it is the chief desire of the jurists to attain—precision. It supplies no means of telling whether or not a society possesses sovereignty; or, perhaps, the question would be whether or not a given group constitutes a "social unit" or a "working political unit."

The idea of the inherent limitations placed upon social forces by the necessity of organization, as suggested by Michels, is very valuable, and one which I should like to see developed more fully. It remains, however, a discussion of factors conditioning what you may call "political sovereignty," if you will, but certainly not aiding in the definition of legal sovereignty. I propose to define sovereignty from the juristic point of view in such a way that the fact that it has nothing directly to do with either power or justice will be apparent to all. In this form, I hope that the concept will be sufficiently innocuous not to lead "anti-absolutists to find it diabolical!"

It is not to be inferred from this that the realm of the jurist is, or can be, completely isolated from that of the social scientist. This comes out clearly in the discussion below of the nature of law, particularly in my rejection of Kelsen's position in this regard. It is, however, in the definition of law, rather than in the concept of sovereignty, that the foundation of juristic formalism upon political and sociological substance can best be worked out.

ment inadequate. A brief examination of the controversy over "sovereignty" will demonstrate how it ultimately resolves itself into a question of the definition of law.

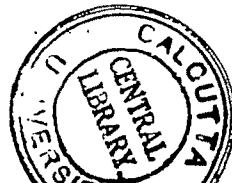
Let us begin with Austin's classic definition of sovereignty. It reads as follows: "If a determinate human superiour, not in the habit of obedience to a like superiour, receive habitual obedience from the bulk of a given society, that determinate human superiour is sovereign in that society, and the society (including the superiour) is a society political and independent."⁴ By a superior, he meant one who possesses "the power of affecting others with evil or pain, and of forcing them, through fear of that evil, to fashion their conduct to one's wishes."⁵ He further defines "a law" as a command of the sovereign, and, by his definition of "command," makes the existence of a sanction (or a "superiour," as defined above) the essential characteristic of law.

The line of attack upon this definition has taken several directions. The ascription of unlimited power to the sovereign has been assailed as in conflict with both justice and actuality. The juristic followers of Austin, however, make clear that they are not dealing with questions of right and wrong, nor, again, with practical limitations upon the exercise of sovereignty, but only with the *legal* situation. With this preliminary sparring out of the way, we come to more fundamental criticisms of the Austinian theory. It is argued, for instance, that a theory of sovereignty that accounts only for the formal aspect of law and not for its substance is completely inadequate, because it denies the character of law to international law, because of the difficulties it encounters in accounting for customary law, because of the aura of sanctity it gives to the state, and because of its omission of the factors which in practice limit the realm over which the government dares to legislate. Here, clearly, it is the question of the nature of law that is fundamental.

Another line of attack of which the pluralists are fond is to defy their opponents to point to the sovereign—Austin's "determinate human superiour"—in a given state. Here, undoubtedly they have a sound point, at least as against Austin. His definition in terms of obedience, at this point, definitely breaks down. To whom are the people of England habitually obedient? To the king-in-Parliament? Austin would have been on safer ground had he said so, but he

⁴ *Lectures on Jurisprudence* (4th ed., London, 1884), p. 226.

⁵ *Ibid.*, p. 99.



added to their number "the electoral body of the Commons."⁶ This, of course, opens the way to endless difficulty. When Austin wrote, women were not entitled to vote in England. But who is to say that the electoral body of the Commons—at least in part—did not obey their wives? Later writers have attempted to avoid this difficulty by restricting the sovereign to those who are legally entitled to obedience. Thus, in England it would be the king-in-Parliament, and in the United States all those individuals who are or may be entitled to participate in the process of amending the Constitution. Clearly, however, even this limitation is insufficient. For it is not merely these individuals as such who possess ultimate authority, but only these individuals acting in the manner prescribed by law. The members of the Senate cannot enact laws between innings in the stands of the Washington baseball field (even though a quorum may be present). There is a circularity in the above reasoning. Sovereignty, it is said, is the authority of those entitled by law to exercise it; while law, in turn, is defined as the command of the sovereign. Thus, here again, the conflict over sovereignty leads directly to the question of the nature of law. This is a difficulty which even the modern refinements of Austinian logic have not altogether avoided. For example, Mr. W. W. Willoughby, the outstanding defender of juristic theory among writers in English today, holds that if there is a question as to the location of sovereignty, "the test to be applied is the question as to which political entity or person, in the last instance, has the *legal* power to determine its own competency as well as that of the others."⁷

This difficulty can be overcome, I would suggest, only by giving up the concept of "the sovereign" entirely. It is, in any case, not at all essential to the concept, or theory, of sovereignty. This, in fact, is the position that has been reached by the Austrian jurist, Hans Kelsen. Sovereignty of the state, says Kelsen, can be comprehended only if it is conceived as the validity of a system of norms, which system derives its validity from no outside source, but rather from an "initial hypothesis"—such as, "You ought to conform to the orders of Parliament"—to which the whole system can logically be reduced.⁸ Clearly, Kelsen renders his system immune from criticism of the type that we have been considering. His theory can be attacked only by reference to his failure to give

⁶ *Op. cit.* (1832 ed.), p. 241.

⁷ *Op. cit.*, p. 75 (*Italics mine*).

⁸ *Loc. cit.* (see note 1), pp. 254-256.

a satisfactory explanation of the nature of his "system of norms," to which I shall recur later.

In other ways, also, the later refinements of juristic theory—Willoughby's designation of the distinguishing characteristic of law as the "official imprimatur of the state,"⁹ and Kelsen's theory just referred to—make it increasingly apparent that it is on the question of the meaning of "law" that the issue must ultimately be decided. Granted the juristic definition of law, the conclusions deduced from it are but truisms. Willoughby's refinement, however, although it lays low many of the fallacious and captious criticisms which have been levelled against Austinian theory, does not get at the real root of the matter. If law is such by reason of its having received "the official imprimatur of the state," then what is the state and what determines its "official imprimatur?" What makes this constitutional procedure, which has the power of giving the quality of legality to a pronouncement, itself legal? The jurists seem to offer only two choices. One—Austin's solution of using the habitual obedience of the bulk of the people—they are definitely trying to avoid. The only other offered would seem to be Kelsen's even less satisfactory "initial hypothesis." According to Kelsen, the question of the origin and basis of law is beyond the realm of jurisprudence. It is "metajuristic." The jurist merely postulates it.¹⁰ This, however, is of little assistance to the person who wishes to know when and how a régime established, say, by a *coup d'état*, becomes legal, or to the solution of the juridical nature of international law. Thus Austin sacrifices certainty for the sake of realism, as we saw in the vain search for his "determinate human superiour;" while Kelsen restricts his theory to the realm of subsidiary law,¹¹ ruling out questions as to its premises, for the sake of building a water-tight juristic structure.

Let us, then, examine more closely the formalistic definitions of law. According to them, law is a command, or at least a proposition capable of formulation as a command. One theory makes the sanction behind the command the essential characteristic of law. An-

⁹ *Op. cit.*, p. 147.

¹⁰ Referring to the example of the Russian revolution, Kelsen admits that there must be a certain degree of correspondence between norms and facts, which the original norm must reflect in order to be binding. How this can be accounted for in terms of his theory, or even compatibly with it, however, he fails to explain. *Der Soziologische und der Juristische Staatsbegriff* (Tübingen, 1928), p. 95.

¹¹ "Subsidiary," that is, to the "original hypothesis."

other fixes upon obedience as the test. We shall begin with the former. A law, says Austin, is a command from a determinate superior to an inferior—that is, from one who has power over the other to influence the action of the other by force or fear. Furthermore, “every positive law, or every law strictly so called,” he continues, “is a direct or circuitous command of a monarch or sovereign number in the character of a political superior.”¹²

There are, I believe, at least two cases which demonstrate the inadequacy of this definition. In the first place, we ask the question: Is a sanction always a requisite for the existence of law? Students of jurisprudence of the historical school assure us that there are primitive tribes that maintain systems of rules without sanctions, which are at least in all other respects similar to political law.¹³ Sir Frederick Pollock cites the Icelandic sagas for examples of such rules.¹⁴ If it be objected that even in such cases some sort of sanction, concealed and unorganized though it may be, must exist, we may well admit the point.¹⁵ It still remains true that there is no determinate, political superior, as required by Austin’s definition.

Secondly, the question arises: Would all cases falling within Austin’s definition be law according to our general notion of that term? Let us suppose that a few individuals, by threat of violence, succeeded in forcing their will upon a large group of people, rendering them virtually slaves. For convenience, we shall imagine these people safely isolated on a South Sea isle, completely removed from external human control. The possessors of the only firearms on the island succeed in establishing a despotism dedicated to their own advancement in power and comfort, and nothing else. The “subjects,” if we can call them that, obey through fear alone, recognizing no element of justice or objective necessity in the situation, and not being reconciled to submission one moment longer than sheer consideration for their own safety dictates. I can only appeal again to the general notion of what law is in support of my conviction that this case would not fit it.

If, then, the definition of political law in terms of sanction fails,

¹² Austin, *op. cit.* (1884 ed.), p. 183.

¹³ The qualifier “political” is used to distinguish the term “law” from scientific laws, “natural law,” moral laws, etc., and at the same time to include non-sovereign law (e.g., international law), which the phrase “positive law” would rule out.

¹⁴ *A First Book of Jurisprudence* (London, 1896), pp. 22–24.

¹⁵ For examples of laws having such sanctions, and none other, see Bronislaw Malinowski, *Crime and Custom in Savage Society* (New York, 1926), *passim*.

because it includes both too little and too much, is the alternative definition in terms of obedience any better? A rule that gets itself habitually obeyed by the bulk of the members of a given society, it is said, is *ipso facto* law. This type of definition is particularly favored by those who are desirous of bringing international law within the realm of political law. But, again, the proposed formula is both too broad and too narrow. It is too narrow because it would not attribute legal character to the numerous regulations in our modern society which are ordinarily neither enforced nor obeyed—for instance, many traffic regulations—and yet which are, upon occasion, enforced.

Further difficulties lie at the other extreme. The definition includes too much. In the first place, it is clearly subject with equal force to the last objection urged against the sanction test: it would include a régime of pure force and fear. But, more than this, it would also comprehend all kinds of customary rules. Take, for instance, a primitive society. Certain regular forms of behavior are observed. Certain acts are taboo. Certain rituals must be performed. Many of these rules, such as those regarding festivals and sacrifices, we would today classify as religious. Others, among them those regulating marriage and sex life, we might call ethical.¹⁶ Those that had to do, for example, with property rights we would denominate as political or, strictly, legal rules. How are these latter to be distinguished from the others?¹⁷ Holders of this theory, when they face these issues at all, fall back upon either a formal or a substantive test. But to make use of a formal test merely prolongs the agony, and ultimately leaves us faced again with the original difficulty.

Shall we set up some political organ or set of organs which alone can give a rule the force of law? In other words, shall we fall back upon the method of interposing a fixed procedure, or “constituted authority” between obedience and the law, making the commands of this authority law as long as the authority in general (even though certain particular commands are ignored) continues to receive the habitual obedience of the bulk of the community?

¹⁶ It is true, of course, that in primitive society, as in modern states, many ethical rules are also political. Thus the rules of exogamy may be considered a matter for social enforcement.

¹⁷ Doubtless the line is vague. But there is a line, certainly, as the example of customary rules of manners demonstrates. See also *infra*, note 22.

When the proposition is stated in this form, we recognize it as equivalent to Austin's original definition, the deficiencies of which have been pointed out above.¹⁸ It is true that certain of the difficulties there alluded to could be avoided by simplifying the "constituted authority" to a mere court. "That is law in a given society," the definition would then read, "which the courts declare to be law."¹⁹ Although this would avoid the difficulty (referred to in criticizing Willoughby's theory) of accounting for the legal relationships within (and constituting) the "constituted authority" (or "sovereign"), the question would then arise: What about the case of a statute that is generally obeyed, but never comes before the courts? Is it not law? More than this: Suppose there are no courts. Suppose, however, that members of the society in question are bound together in kin groups for their mutual protection. Certain rules are recognized as binding, but there is no impartial tribunal to interpret the law. Self-help is the rule.²⁰ Clearly, this is a less desirable form of organization than one in which there are courts. But if in fact certain rules for the organization of group life are adhered to with reasonable regularity, are we to deny them the name of law? What else would we call them? Why should the word "custom," for instance, be extended beyond its ordinary meaning to include customs whose observance not only is regular but is enforced if the "custom" is not observed voluntarily. Why, in fact, should it be extended to include any customs that are considered as in some way obligatory, so that their non-observance is looked upon with disapprobation?²¹

Suppose, then, that resort be had to a substantive test to distinguish between customs that constitute political law and those that do not. Can the political be distinguished from the ethical or the religious on the basis of the matters that are subjected to regulation? A moment's reflection will serve to show the inade-

¹⁸ Austin's definition in terms of sanction is, in fact, a particular form of procedural definition. See also the general criticism of this type of theory, *supra*.

¹⁹ The practical advantages of this test for law as distinguished from custom are ably set forth by John Dickinson, in "Social Order and Political Authority," in this *Review*, Vol. 23 (1929), at pp. 604-608.

²⁰ See Malinowski, *op. cit.*, *passim*, and especially pp. 76-80.

²¹ If it is argued that now we are in a region where the distinctions between religious, ethical, and political rules have not been developed, one need only reflect that certain rules (*e.g.*, the performance of religious rites) are not considered a matter of social duty, while others are. Some violations, that is, give rise to the rights of certain individuals to take steps. Others are left to the gods for enforcement.

quacy of this distinction. Thus, moral codes may regulate such matters as marriage and divorce; while these same affairs are also appropriate subjects for regulation by political law.

However, this suggests another whole category of definitions of law—definitions which are purely substantive, placing no reliance upon either obedience or sanction as a test. The idea of defining political law either by reference to formal characteristics, such as the *procedure* by which it is enacted (or declared), or by reference to the fact that it is enforced upon, or obeyed by, the bulk of the members of a given society, is comparatively modern. For long, the word was associated with right and reason, as, indeed, it still is in the words for "law" in many other languages: "*Recht*," "*droit*," "*diritto*," etc. Thomas Aquinas defined law as "an ordinance of reason for the general good, emanating from him who has the care of the community, and promulgated."²² "A tyrannical law," declared Saint Thomas, "not being according to reason, is not, absolutely speaking, a law, but rather a perversion of law."²³

Duguit, for example, among the moderns, insists that the state is subject to the rule of law (*la règle de droit*). This rule of law he defines in terms of the requirements of "social solidarity," or what we would call "interdependence." Similarly, the Dutch jurist, Krabbe, launches an attack upon the theory that law is what the state commands. He, too, is in search of an objective basis for law and is trying to get away from the doctrines of individual rights which accompanied the orthodox Austinian theory, and to substitute a theory that roots law more firmly in the needs and interests of society. In his effort to find something more readily apparent than "social solidarity," he hits upon the sense of, or feeling for, right (*Rechtsgefühl*).

We have already indicated that the substantive test fails to distinguish legal from non-legal customs. But broader criticisms also run against all such theories. In the first place, they open themselves to attack, from the juristic point of view, on the ground that they do not give a definition of law that can be applied with certainty. The standards are subjective, at least in the sense that each individual must apply them for himself. Consequently, there would be a great deal of dispute as to what, in a particular instance,

²² *Aquinas Ethicus*, ed. Joseph Rickaby (New York, 1892), p. 267.

²³ *Ibid.*, p. 272.



the law was. Such uncertainty, the jurists would contend, would defeat the very purpose of law—the maintenance of order.

It is not primarily on this basis, however, that these theories will be criticized here. While recognizing certainty as a highly desirable element in political law, I do not consider it to be of its essence, as I shall argue later on. An idea which does appear to me to be essential to our ordinary notion of political law is that there is a distinction between it and any standard of what ought to be. The idea of good and bad law seems to me to be too firmly imbedded in our concept of law to admit of any definition that would do away with this distinction. Yet, clearly, both the definition of law in terms of reason and that in terms of objective necessity ("social solidarity") would render meaningless any such distinction. They confuse ordinary law with natural law.

This same criticism cannot be directed against Krabbe's theory. For his theory does admit of a distinction between the actual sense of right of the community and the sense of right as it ought to be.²⁴ According to it, the test of political law is to be found in that which causes its observance; not an external sanction, however, but a conviction or feeling of moral obligation. This possibility was hinted at in the consideration of law and custom above, where it was suggested that "customs" that are felt as obligatory are thought of as something more than mere customs in the sense of behavior-patterns, and that at least some of them would be considered today as belonging to the class of political law.

Although a definition built around this test must fail along with the others, I desire, before pointing out its weakness, to discuss its strong points, for they are too frequently overlooked. This formula is not to be confused with those that equate law with some objective standard of right. It is not what is right but what is *believed* to be right that matters, according to this view of the subject. Let us test this particular idea. Can we think of any example of what is generally considered law that is not recognized by the bulk of the society²⁵ concerned as possessing some moral obligation—even if

²⁴ Thus he states: "What appears at a given time as a legal rule may perhaps be the result of an inadequate knowledge of the interests concerned or of prejudice in favor of special interests." *The Modern Idea of the State*, trans. by Sabine and Shepard (New York, 1930), p. 60.

²⁵ Note the qualification, "bulk of." It is important, and answers the objection to the effect that doubtless few of the Jews in Germany today, for example, recognize any modicum of moral validity in Nazi laws against them.

only because of its contribution to the political purpose of order? Immediately there comes to our minds the case of pure absolutism. Could the subjects of such governments as those possessed by the ancient despotisms of Persia and Egypt, for example, be said to recognize any moral validity in the commands of the despots. Before we give an impulsive answer in the negative, we must reflect upon how easy it is for men to come to consider as right conditions which to outsiders appear not only as obviously wrong, but as exploitative of the very people who believe them to be right. Certainly the history of slavery in this country furnishes abundant testimony to this fact; for it was frequently not only the owners, but also the slaves themselves, who considered the institution a just one. This appears to be but one example of a universal tendency among men to translate the factual into the normative—not only to form ideas of what ought to be in terms of what is, but actually to equate the existent with the ideal.²⁶ Surely this tendency bears some relation to our inclination to measure all cooking by home cooking, even though it may fall short of explaining that preference on the part of husbands for mothers' cooking, of which wives are wont to complain. As further evidence of the general existence of this tendency, note that frequently our first impulse to defend a personal habit which may be challenged is supplanted by the realization and ready admission that, after all, it is wasteful of time, or otherwise harmful, and should be broken. Furthermore, we must avoid judging the despotisms of the past in the light of the far different conditions of modern times.²⁷ Some elements of justice could doubtless be found in the worst of them.

Thus it seems to me highly probable that in most states, today or in the past, the bulk of the people have considered the law as possessing a certain "rightness." This does not mean, of course, that they gave much, if any, rational thought to the matter. It simply means that they surrounded political regulations, along with other rules that they tolerated, with an aura of "oughtness." Moreover, and this is the significant point, it seems to me almost essential to the concept of law that such should be the case. We have found both the obedience and the sanction theories of law

²⁶ A stimulating discussion of this phenomenon as related to law is to be found in Georg Jellinek, *Allgemeine Staatslehre* (3rd ed., Berlin, 1929), pp. 337-344.

²⁷ Not to mention the fact that the most despotic governments of today appear, at least, to have the widest popular support.

breaking down at just this point. Where a régime is enforced by pure force and fear—where there is not even toleration of injustice—it does not quite “click” with our sense of what is law. Furthermore, mere obedience to a rule fails to supply the distinction that we all feel between behavior-patterns directed toward a social purpose that have generally ascribed to them a quality of “oughtness” or “rightness” and those that do not. In the former case only is it generally felt, in the society concerned, that violation of the custom constitutes wrong-doing and justifies coercion.

Unfortunately, as indicated above, this theory, like all the others, has its flaw. It is incapable of supplying a distinction between political law and other norms. Many rules are recognized as “right,” and yet are not “legal.” We are faced with the old choice between substantive and formal criteria, both of which we have already discarded.²⁸ Nor is it quite accurate even to say that for a régime to be legal it must be generally considered as in some measure “right.” That is not *quite* the point. It is conceivable that there might be régimes in which the bulk of the people tolerated the government, recognized it as “legitimate”—“legal”—and yet did not consider it “right” in the ethical sense. We have come, then, to this conclusion—that to be legal a rule must be recognized, by the bulk of the people whom it claims to regulate, as something akin to “right,” yet not quite that—as something which we can only designate as “legal.” This, in truth, is not a definition, for it attempts to define a concept in terms of itself. But it does tell us

²⁸ Krabbe himself accepted the formal test of majority decision. He justified this by arguing that the sense of right “attaches the highest value to having a single rule and sacrifices, if necessary, a particular content which might otherwise be preferred;” and by assuming various senses of right to be of equal value. (*Op. cit.*, p. 74 *et seq.*) But suppose that in a particular case the sense of right of the community does not, in fact, attach supreme value to having a single rule. What then is law? Krabbe’s theory either fails entirely to answer this question, or else boils down, after all, to an assertion of the absolute legality of rules created in accordance with the majority principle. In other words, Krabbe failed to work out the relationship between the sense of right based upon the content of a particular rule and that based upon the value of having a single rule. Had he done so, he might have defined law somewhat after this fashion: “Law is that rule that is recognized as right for the reason that others recognize it as right, or for the reason that others obey it.” Thus expressed, it would probably constitute the most plausible formulation of the theory dealt with above. It would even distinguish political from other law. Nevertheless, it would fail, both because some laws are not recognized as “right” in any sense, and also because, even among those that are so recognized, the recognition in many cases bears no relationship to any *logical* reason for considering the law “right.”

something. It tells us that *that which determines the legality of a rule exists in the minds of the people who are subject to it.*²⁹

Up to this point we have argued that solidarity, moral obligation, obedience, sanction, and sense of right or recognition of moral obligation all, in turn, break down as definitive tests of law. Nor do the concepts of "definite procedure," "sovereign," "constituted authority," or "initial hypothesis," either individually or in conjunction with any of the other suggested tests, fill the bill. We have thus been driven to the conclusion that there is no definition, in the strict sense, of "political law." It is not a simple notion; it is a compound notion. The best we can do is to get some conception of the ideas of which it is compounded.

It is to be noted that, while the definitions in terms of moral obligation or solidarity were comparatively easily discarded, when it came to those hinging around obedience and sanction, it was only by reference to what might be called "marginal" cases that they proved inadequate. And "recognition of right," while it failed badly as an exclusive test, did seem to be almost an essential element of the concept. We may conclude from this that those notions come close to expressing what we mean by law. It is conceivable that any one of them might be lacking at a given time without depriving rules of their legal character.³⁰ Generally, however, all three are present in some measure—especially obedience and sanction.³¹ Austin did the natural thing when he hit upon obedience as the

²⁹ A word of explanation is needed here as to the part played by the notion of "political purpose." Undoubtedly, some measure of political purpose (or believed political purpose) is essential to the concept of law (in the limited sense that any of the elements of this shifting notion are "essential"). It is not dealt with here more fully for two reasons. In the first place, it would not suffice as a definitive test of law, for the definition of "political" involves all the old difficulties dealt with above. In the second place, as an important element of the concept, it has already been included in "recognition of rightness"; for the most likely way for a régime to secure recognition of ethical value is for it to bear some real or apparent relation to a political purpose—a purpose, that is to say, inclusive of the community as a whole.

³⁰ Even in the absence of "constituted authority," law (properly so designated) may fail to receive habitual obedience. See Malinowski's examples of the rules of exogamy, and of the father-son relationship among the Trobriand Islanders (*op. cit.*, pp. 76-84 and 100-111). And, for discussions of "law" without organized sanctions in the Middle Ages, see Max A. Shepard, "Sovereignty at the Crossroads," *Political Science Quarterly*, Vol. XLV (1930), at pp. 582-585, and C. H. McIlwain, *The Growth of Political Thought in the West* (New York, 1932), pp. 190 ff. and 365 ff.

³¹ Thus, for most practical purposes within the modern state, Willoughby's designation of law as "those rules of conduct that the courts of justice apply in the exercise of their jurisdictions" suffices. *Op. cit.*, p. 143.

test of law. It is the best single, objective test; for it is the ordinary external manifestation of that inner recognition which has been here identified as the true mark of law.³²

We have further concluded that whether a particular combination of these factors is sufficient at a given time or place to constitute law depends upon whether the bulk of the society that the rules presume to regulate considers them sufficient—that is, whether it recognizes them as law. The question immediately suggests itself: How is an observer in "X" to know whether or not the people of "Y" recognize certain rules as law, if what constitutes law depends upon their recognition? But we are frequently confronted by just such indefinable notions as this, which yet we can and do deal with as though we knew what they meant. Take the concept of nationality. It has defied all attempts at precise definition. A common language, a common history, a definite home-country—all these tests break down when faced with the task of accounting for all cases of acknowledged nationality.³³ The notion is of the same sort as is law. It has well been said that the best way to determine a person's nationality is to ask him. This is strictly parallel to the solution here proposed for law. A subjective element inevitably enters into its definition. That does not mean that it has no objective basis. Then it would be futile indeed to talk about it. It does mean that it has no objective basis which is precisely the same in all cases. The subjective notion has been built up by the cumulative process of experience. Thus there has developed a substantial community of agreement as to its meaning without that meaning ever becoming precisely definable in terms of objective conditions.

Law, then, is dependent upon a popular state of mind, produced by conditions with which we are roughly familiar, which may include both actions and beliefs, and which may vary in their relative

³² Binder's criticism of Austin's definition to the effect that it is like defining a man as the vertebrate that customarily occupies northern plains and gets a cold in the head in winter, although a caricature of juristic theory, aptly expresses its essential weakness. *Philosophie des Rechts* (Berlin, 1925), p. 255.

³³ Note the definition of nationality given in a recent study on the subject. It reads: "Nationality as a quality is the subjective corporate sentiment permanently present in and giving a sense of distinctive unity to the majority of the members of a particular civilized section of humanity, which at the same time objectively constitutes a distinct group by virtue of possessing certain collective attributes peculiar to it, such as homeland, language, religion, history, culture, or traditions." Bernard Joseph, *Nationality; Its Nature and Problems* (New Haven, 1920).

importance and contents from case to case within certain rather narrow but vaguely defined limits. More specifically, a law is a rule of human conduct that receives from the bulk of the members of a given society a peculiar recognition—a recognition that is likely to be induced by certain objective factors (generally in combination), such as general obedience to the rule, the organization of sanctions for its enforcement and (less essentially) of procedures for its interpretation and application, and a general conviction of the “rightness” of the rule (or of the end which it is apparently designed to promote), especially when this conviction is reënforced by the knowledge that others believe it right, or at least act in accordance with it.

With this notion of law in mind, we return to the problem of sovereignty. Having secured an independent basis for our conception of law, we are left free, if it should prove desirable, to formulate our definition of sovereignty in terms of law. For the reason that, as a matter of history, the concept of sovereignty was a much later development than that of law, there would seem to be a certain *prima facie* reasonableness in such a procedure.

I have already expressed dissatisfaction with any definition of sovereignty in terms of “a sovereign,” and approved of Kelsen’s elimination of the latter term. Kelsen makes sovereignty merely the validity of a system of “norms”—by which he means their formal completeness, self-sufficiency. A body of law, or a state—which, according to Kelsen, is the same thing—is sovereign if it is not legally dependent upon any norm outside itself, and if it itself forms a logical whole in which all the parts may be deduced from a single norm which constitutes the apex of the system. This latter norm is the “initial hypothesis” upon which all law is based, and the character or justification of which, he argues, is not a juristic question. It was, it will be remembered, at this latter point that we parted company with Kelsen. Consequently, we have formulated a definition of law which, unlike Kelsen’s, makes possible the existence of political law without the presence of a complete, self-contained legal system. With this addition, it seems to me that Kelsen’s theory of sovereignty may be rendered more meaningful. Sovereignty, that is to say, is the quality possessed by a system of legal rules when, in fact, it forms a completely integrated and self-contained hierarchy.

Even this formulation, however, falls short in one respect.

Whatever may have been the case historically, today at least, the concept definitely denotes legal omnipotence.³⁴ Thus it follows that the fundamental norm, if it is to be sovereign, not only must provide for its own definition, but must not contain any restrictions upon itself. This does not mean that a legal system (such as that of the United States) based upon a written constitution containing restrictions cannot be sovereign. Our Constitution not only contains restrictions, but it also provides a legal method for overcoming these restrictions—the amending clause. Thus it is the amending clause, rather than the Constitution as a whole, that is our “fundamental norm.” A constitution that provided no means for its own amendment would, according to this theory, be law, but would not be quite sovereign. Incidentally, our own Constitution, owing to the limitation on the amending power itself, according to which no state may be deprived of its equal representation in the Senate without its own consent, comes perilously close to failing to achieve complete sovereignty—being saved only (if at all³⁵) by grace of the phrase “without its own consent.”

Finally, it must be remarked that no procedural devices (such as serve to give the quality of “sovereignty” to law) can guarantee *absolute* certainty. Thus, the amending clause itself may cease to be law. Or, to put the same point in more general language, if the fundamental norm at a particular moment is “The commands of ‘A’ shall be law,” and if that rule is then changed (by an alteration of the popular consensus) to “The commands of ‘B’ shall be law,” then there has been a change in the law even though that change

³⁴ Professor McIlwain's distinction between the “constitution” and the law which the sovereign creates does not seem to me to apply to our modern constitutions, such as that of the United States, wherein the instrument known as the “constitution” not only is law, but also is subordinate to a higher law—the amending clause. I would substitute “fundamental norm” where he uses “constitution.” His theory necessarily follows different lines from those sketched herein because of the fact that he is searching not only for sovereignty but also for a (legal) “sovereign.” See his “A Fragment on Sovereignty,” *Political Science Quarterly*, Vol. 48 (1930), p. 101 and *passim*.

³⁵ Some writers maintain that the limitation on the amending power does deprive the United States of sovereignty. This view seems to me to confuse an added intricacy in the amending process with an absolute limitation. The position could be supported, however, by contending that a legal system that required unanimous consent for even the most improbable of possible alterations lacked sovereignty (although, presumably, the requirement of any extraordinary majority short of unanimity would be all right). I am not quite sure which construction more accurately fits the prevailing notion.

was not registered by the appropriate procedure. Thus, in the strictest sense, it may be said that absolute sovereignty according to our definition is impossible. In fact, it might be said to be the paradox of sovereignty that it is an artificial creation for the purpose of introducing certainty into something (law) which, by its very nature, can never be rendered completely certain—although it is also its (law's) nature to strive after certainty! For practical purposes, however (and this is our revised and final definition), *the law of a group is said to possess sovereignty when it depends upon no rule external to itself, when it contains no absolute restrictions upon its own elaboration and growth, and when it imposes upon itself a definite procedure for the precise and definitive determination of what the law is in a particular case.*³⁶

The time has now arrived for us to apply the combined notions of law and sovereignty. What is the test of law in a sovereign system of law? The literal answer to the question is obvious, for it flows directly from the definitions themselves. If the whole body of rules meets the test of recognition, and is possessed of sovereignty, then the validity of any particular rule may be definitively determined by reference to the machinery for that purpose furnished by the law itself. Thus, in this country, a decision by the Supreme Court is law. In certain cases, the decisions of lower courts, or of other organs of government, may be law, when it is legally so provided.

Suppose, however, that, according to the definition of sovereignty, a certain rule would appear to be law, and yet the rule did not meet the original test of law. Suppose, that is to say, that a rule that had received the stamp of validity of the highest stage of the legal procedure—the “official imprimatur of the state”—was

³⁶ This is, of course, a purely juristic definition. It is, that is to say, a definition of “legal” sovereignty, not of “political” sovereignty. It may be an unfortunate usage that has given the word “sovereignty” these two different senses; but it is the fact, and I see no point in arbitrarily selecting one of the uses as the “proper” one and ruling out the other. See note 3, *supra*.

In so far as the idea of self-definition is an addition to Kelsen's formula, it seems to me to be a necessary one. A system of substantive legal rules might, in a sense, be formally complete, yet, if there was no provision for their application to a particular case, according to rules provided for the purpose, the whole body of law could hardly be said to be sovereign. With this addition, it becomes unnecessary to include in the definition of sovereignty any direct reference to a state or political organization, for the necessity of some such machinery is implied in the requirement of self-definition.

not generally recognized as law. Such a case would truly be an example of nullification. Clearly, the bulk of the population cannot at one and the same time recognize the legality of a régime that enacts a certain rule according to due form, and at the same time refuse to recognize the rule in question. If actually the legality of a particular rule is not recognized, the rule is in fact nullified—not law—and the legal machinery of the “constituted authority” has been changed sufficiently to admit of this nullification. This can only mean that the legal system was not, or at least momentarily ceased to be, sovereign.

When thus stated, it becomes clear that cases of nullification will be exceedingly rare.³⁷ A statute making it illegal to kiss one's wife on Sunday would probably meet the test of law as long as no attempt was made to enforce it. But, in this country, at least, it would probably be upon that condition only. If any serious attempt were made to enforce it, a change would be brought about, whether within or without the procedure provided by the “sovereign” body of law. A better example is furnished by the case in which it is practically impossible to bring about a certain change in the law by means of legal procedure provided for the purpose, as in the case of the limitation of the amending clause of the United States Constitution, already referred to. It is clear that no procedural means is provided for the precise determination of a change in this limitation. Yet, of course, the law on this point might, in fact, change. Nevada might be completely depopulated, except for two citizens eligible for the Senate. Under such circumstances, it would not be hard to imagine that the rest of the country would refuse to recognize as law the so-called legal (constitutional) fetters which prohibited a change being made without the consent of these two people. Certainly if the “law” was violated in this respect, people would not consider all subsequent proceedings of the Senate illegal; but, on the contrary, they would recognize them as legal.

Again, let us consider the case of the English constitution. Is it law? Suppose Parliament should pass an act abolishing the king's veto power. And suppose, further, that the king should veto this act and also the next succeeding act of Parliament. Would the latter act be law? The decision must hinge upon the consequences.

³⁷ It is important to note the distinction between ceasing to recognize a rule as law—nullification—and ceasing to consider it morally binding.

(In this sense, at least, all law is based upon consent, even if not necessarily voluntary consent.) There is nothing inconsistent about calling certain parts of the English constitution "law," even though they may never have been put in statute form. The fact that Parliament could probably change it merely proves that it is not "higher law." There is no qualitative difference.

One more particular application needs to be dealt with: that is the case of international law. A full treatment of the nature of international law would require consideration at much greater length than would be fitting here; consequently, what will be said on the subject now must be summary and dogmatic. It is intended only to demonstrate that the theory of law adduced herein not only can be made to fit the case of international law, but also, it is believed, fits it rather better than other theories.

To Austin, international law was not law at all, because it lacked the sanction of a sovereign political superior. Other jurists, wishing to avoid this result without falling back upon the concept of natural law, have adopted the formula that law is that which gets itself obeyed, or observed. We have dealt with this theory above. In the hands of some, it resolves itself into a complete identification of law with custom. For the most part, however, writers in the field of international law imply a distinction between certain international usages which they say are observed out of mere "comity" and others to which they attribute a legal character. Generally, these same writers make no attempt to explain what constitutes this distinction.

Not only does the obedience test fail to distinguish law from comity, but it also attributes legal validity to relationships of obedience which are established and maintained purely by force. It has been argued above that any definition of law that makes such relationships *ipso facto* law is unsatisfactory. Of course, it may be true that the international community does in certain cases recognize the product of might as right. All that is being contended here is that in such cases the legality of the situation derives from this general "recognition," and not directly from the mere fact of force-imposed obedience.

Thus it is implied that I should consider much "international law" to be law in the sense of my definition. It is readily apparent, however, that at present the body of international law is far from being possessed of sovereignty. It has practically no compulsory

procedure for determining what the law is. That determination is left up to each state for itself, with the consequent probability of disagreement in any particular case, so that objectively there is no real determination at all. This is a great deficiency in a legal system. But it destroys its sovereignty rather than its legal character.

These applications of the theory point the way to certain further deductions as to the relationship between law and sovereignty. Thus it may be stated that when an independent legal system possesses a procedure that insures its own definition, there is a strong presumption in favor of the legal character of any rule that has received the stamp of validity provided by this procedure. This presumption can be overcome in one of two ways, and in those ways only. In the first place, when the "procedure" ceases to command the recognition of the bulk of the people, obviously the rules made in accordance with it lose their presumptive legal quality. Such is preëminently the case when there is a revolution. Revolutions, of course, may supplant the whole of the preëxisting legal system (and, more specifically, the procedural part of that system) or, as is much more likely to be the case, only a part of it.

Or, in the second place, if the "procedure," though still recognized in general, does not serve to secure the recognition of a particular rule, made in accordance with it, as "law," then clearly the presumption is overcome. The rule is not law. This is the case of nullification, dealt with above.

Thus, although the difference between, say, international law and the laws of the United States is one of degree, yet on account of the fact that the latter possesses the characteristic of sovereignty, the difference is so great that the penumbra of uncertainty as to what is law is reduced, in the United States, to the vanishing point. Sovereign law possesses certainty. But a chain is no stronger than its weakest link, nor a house than its foundations. The certainty of law even in a sovereign state is ultimately contingent upon its general recognition. But of this general recognition there can ordinarily be no doubt. When we reflect, too, upon the resources—including organized violence, in the last instance—which the modern state has at hand for producing that recognition, the residual element of uncertainty need not disturb our tranquility.

In conclusion, it remains only to try to set in perspective what it is hoped has been accomplished. "Law," even "political law," is an

exceedingly slippery term. Hence the continual recourse to the use of qualifying words and phrases to which writers on the subject are addicted. Thus customary law and international law are designated as "primitive" or "imperfect" types of law—as law of a totally different quality from that which exists in sovereign states.³⁸ Or, again, we have a feeling that in certain cases there is a difference between "formal" and "substantive" law. Yet, among all these various uses, there runs a common meaning. It is this common meaning that I have attempted to get at. It is true that this can be accomplished only by leaving the term with a margin of vagueness. But it is a narrow margin. I feel, moreover, that in doing this there is a distinct advantage over the more precise definitions, the precision of which is gained only at the price of ruling out certain phenomena which do in fact accord with the popular conception of "law."³⁹ Furthermore—and this is important—where, as generally, we are dealing with "sovereign law," this element of uncertainty is practically eliminated. The common meaning of law, which we have attempted to ascertain, is based neither purely upon substance nor purely upon form. It is nearer the latter. But actually it is neither one. Rather, it relates to a state of mind—a consensus. Thus it follows that absolute certainty, or definiteness, is not of the essence of law. However, it is the nature of law to approximate this; for so much is implied by its definition as a "rule." Finally, controversies over the nature of sovereignty, it is hoped, have been resolved by pointing out that the essence of this concept is the very element of formal certainty (as applied to a body of law) that is so important, and yet which is not part of the concept of law itself.

³⁸ For summaries of such views regarding international law, see H. Lauterpacht, *The Function of Law in the International Community* (Oxford, 1933), pp.400-407.

³⁹ Professor Willoughby himself recognizes the possibility of other constructions than that which begins, as he says, by postulating the state as the *fons et origo* of law. *Op. cit.*, p. 30.

MILITANT DEMOCRACY AND FUNDAMENTAL RIGHTS, II*

KARL LOEWENSTEIN
Amherst College

II

Some Illustrations of Militant Democracy. Before a more systematic account of anti-fascist legislation in Europe is undertaken, recent developments in several countries may be reviewed as illustrating what militant democracy can achieve against subversive extremism when the will to survive is coupled with appropriate measures for combatting fascist techniques.

1. *Finland:* From the start, the Finnish Republic was particularly exposed to radicalism both from left and right. The newly established state was wholly devoid of previous experience in self-government, shaken by violent nationalism, bordered by bolshevik Russia, yet within the orbit of German imperialism; no other country seemed more predestined to go fascist. Yet Finland staved off fascism as well as bolshevism. At first, the political situation was not unlike that of the Weimar Republic in the years of disintegration. The Communist party, declared illegal by the High Tribunal as early as 1925, reconstituted itself and, in 1929, obtained a large representation in the Riksdag, thereby blocking any constitutional reform. Under the decidedly extra-constitutional pressure of the nationalist and semi-fascist movement of the Lapuans, the Communists were so intimidated that nationalists, and progressives (bourgeois liberals); against the opposition of the social Democrats, were able to carry the constitutional reforms which not only strengthened the position of the government but also eventually barred subversive parties—meaning, at that time, the Communists—from national and communal representation. The Communist party finally disappeared from political life. Concomitantly, the fundamental rights of association, free speech and press, and freedom to combine were severely curtailed. In particular, the statute of November 28, 1930, proscribed the formation, activities, and support of all parties aiming at forceful change of the political and social order. When, however, after the elimination of

* The present and concluding instalment of this article covers developments to May 1, 1937.

the Red danger, the Lapuan movement became increasingly overbearing, and also resorted to lawlessness and terrorism against the constitutional government, the acting cabinet, under the presidency of the "liberator" of Finland, Svinhufvud, invoked against the Lapuans the same laws by which Communism had been crushed. In December, 1931, the Lapuans, in the Mäntsillä uprising, tried to seize power by armed rebellion, but the movement collapsed immediately, when it encountered, in March, 1932, militant application of the extraordinary powers. The Finnish democracy was saved also from fascism. After that, President Svinhufvud was able to steer a middle course and to stabilize the country as a genuine democracy. The government passed the necessary legislation against the recurrence of fascist plots by the bills of 1933 forbidding the formation of private armies within political parties, and of 1934 prohibiting the ostentatious wearing of political uniforms and other symbols of political allegiance. Although a fascist party was permitted to participate in political life, enforcement of the anti-extremist legislation effectively crippled its aggressiveness, and, deprived of its military regalia, it became only one among other ordinary political parties of scant importance. Thus, Finland's political status was changed from that of a Baltic state of the authoritarian type to that of a member of the Scandinavian family of democracies. The result of this evolution was confirmed by the election, in February, 1937, of Mr. Kallio, the Agrarian leader, in succession to Mr. Svinhufvud as president of the Republic.

2. *Estonia*: Another striking illustration of militant democracy is offered by Estonia. Here again, a country of political and economic instability, located precariously between Red and Brown, successfully withstood both communism and fascism. After Hitler's seizure of power in Germany, the menacing pressure of fascist groups increased also in Estonia. The problem took once more the post-war turn of constitutional reform usually resorted to when it becomes necessary to strengthen the executive against parliamentary disintegration. By the reform of 1933-34, the president became nothing less than an authoritarian leader. The reform movement was sponsored and carried through by the "liberators," a true replica of the National Socialist party in Germany. When, in January, 1934, the new constitution came into force, the "liberators" hoped to utilize the increased powers of the executive

over the legislative for their own plans and prepared for a forceful overthrow of the government by a *coup d'état*, the so-called Larka plot of March, 1934. But President Päts used against fascism exactly the same extraordinary powers that the reform had conferred upon him. Not only the local fascist organizations which the former Baltic landowners of German extraction had built up were dissolved, but also the "liberators" were proscribed by martial law. Emergency powers were widely applied to maintain order and peace through the vigilance of the President, a second attempt of the fascists to seize power by force was nipped in the bud (the so-called Larka plot of December, 1935). It is true that since 1934 Estonia's political system more or less reflects the authoritarian type of government, with almost unlimited powers vested in the President on the basis of the one-party system, the government's Fatherland party. But the suspension of constitutional government was clearly meant to be of transitional character. In February, 1936, an honest plebiscite went in favor of a full restoration of democracy and of a constituent assembly. At the general elections for the constituent assembly, in December, 1936, both communists and fascists were excluded from the ticket, and a democratic constitution of the new authoritarian type may be expected. The Estonian example demonstrates the preservation of democracy by undemocratic methods and typifies the situation of democracy at war against fascism.

3. *Austria*: For a short while, between March, 1933, and February, 1934, the Austrian Republic seemed to take a similar course. The government of Dollfuss was at first intent on avoiding fascism as well as communism, and in May, 1933, it outlawed subversive movements of all kinds impartially. In February, 1934, however, Dollfuss ruthlessly crushed the Socialist party, which was intensely loyal to constitutional government, and established a one-party state, thus openly flouting the rule of law and turning Austria into a fascist country without even the pretext of constitutional government. The attempt of the dominating minority group to keep out national socialism by a pitiful imitation of its emotional propaganda seems doomed to failure. After the conclusion of the German-Austrian agreement of July, 1936, the transformation of Austria into a National Socialist vassal state is only a matter of time and tactics, which even successful monarchical restoration may temporarily delay yet not ultimately prevent.

4. *Czechoslovakia*: No doubt the most conspicuous example of a democratic country maintaining its fundamental structure against overwhelming odds is Czechoslovakia. Here, on this solitary island in the surrounding sea of dictatorial and authoritarian states, the internal situation is distressingly complicated by the existence of a strong minority of Sudetic Germans, who, once the dominating class, could never quite reconcile themselves to coöperation with the Czech majority controlling the government. Among the Sudetic Germans, whose masses live close to the German border, more and more a dangerous spirit of irredentism grew up, duly fostered by the rising power of National Socialist Germany. In addition, the parliamentary administration, otherwise admirably handled, proved, as everywhere, too slow and cumbersome for the exigencies of the economic crisis which weighed heavily on the highly industrialized country. That the democratic structure and the national integrity were none the less maintained is due to two causes. In the first place, the successive coalition governments, acting under sweeping enabling laws, ruled more and more by decrees under the ultimate control of the parliament. Thus Czechoslovakia bowed to the new version of parliamentary democracy after 1929. Although this course was certainly open to grave constitutional objections, the highest courts and the parliamentary bodies, which alone can raise the issue of the constitutionality of these far-reaching measures before the Supreme Constitutional Tribunal, wisely refrained from being over-legalistic. Slowly, the Czechoslovakian political system was transformed into the authoritarian, or "disciplined," democracy which the emergency situation in the national and international sphere demanded. On the other hand, the government reacted vigorously against the fascist technique of undermining the constitutional system and the democratic spirit of the institutions. In the report of the committee of the House of Representatives on constitutional and legal questions, introducing the law of October, 1933, concerning the suspension and dissolution of subversive parties, we read the following sentences, which aptly describe the existing emergency situation: "It is evident that all constructive and politically responsible factors are confronted by the necessity of making provisions for the defense of the most cherished possessions of the Republic and of the citizens, in order to check the activities inimical to the state

... In politics also the defense is shaped according to the fighting methods of the assailant."

In accordance with these policies, the Czechoslovakian Republic enacted the most comprehensive and intelligent legislation against fascism now in existence in any modern state, and, what is more, the authorities used the powers conferred upon them with undaunted energy. As early as 1923, an act for the "protection of the Republic" shielded the integrity of the Republic and of republican-democratic institutions. In view of the more subtle methods of the fascists, who shrank back from open defiance of the law and pursued their aims under cover of the exercise of fundamental constitutional rights, more appropriate measures had to be devised. In October, 1933, shortly after the avowedly National Socialist German parties had been prohibited by a mere administrative order, a statute was passed which empowered the government to suspend and dissolve any subversive party, group, movement, or association whose activity, in the opinion of the government, was "apt to endanger the constitutional unity, the integrity, the republican-democratic form of the state or the safety of the Czechoslovakian Republic." Membership in an association with subversive aims was deemed sufficient evidence of guilt. Reconstitution of a dissolved party under another name or form (*tarning*) is unlawful; members of the outlawed party are ineligible for parliamentary or public office; active members forfeit their parliamentary or official functions; property of an outlawed association is to be confiscated; uniforms and all symbols indicating sympathy for the proscribed movement are prohibited; freedom of speech, press, assembly, and movement within the state for all involved in or suspected of subversive activities is heavily curtailed. In addition, members of and sympathizers with such parties may be subjected to close surveillance and control by the police. In conformity with the rule-of-law principle, the final decision on the legality of an order suspending or dissolving an allegedly subversive party lies with the Supreme Administrative Tribunal. Thereafter, no subversive extremist or revolutionary movement could raise its head, although a Czech fascist party was permitted to continue as an ordinary political party. Communism had previously adjusted its program and tactics to the democratic environment.

In view of the determination of the government to defend de-

mocracy, the parties fundamentally opposed to the present form of the state had to conform to the laws. Avoiding any open defiance, and also refraining from unlawful or militaristic propaganda, the formerly subversive forces of the German opposition organized themselves into a normal political party. At the general elections of May, 1935, the "Sudetendeutsche Heimatpartei" of Herr Konrad Henlein emerged suddenly as the second strongest party in Parliament, rallying almost seventy per cent of the German population under its banner. It was evident that even the most foresighted legislation could not prevent the forces of the opposition from organizing themselves efficiently. But under threat of the act of 1933 and the determination of the government to enforce it, the Henlein party acted scrupulously in accordance with the law, the constitution, and the rules of the parliamentary game. In addition, the act had proved an effective device for preventing the opposition from becoming a military organization. Yet the government anticipated the potential danger arising from an inimical population strongly organized in political cadres and bordering on an unfriendly neighbor. A new and far more drastic statute was passed in May, 1936, styled an "Act for the Defense of the State." Again no heed was paid to well-substantiated objections which constitutional legalism did not fail to raise. In normal times, this piece of legislation—which in fact is a new constitution—would have been legally impossible unless passed as a constitutional amendment. But it was justified by the emergency situation. The statute moulds the entire state, and particularly the border districts, into a fighting unit in preparation for the impending war by abolishing, to a large extent, under wide discretionary powers of the government, constitutional guarantees and constitutional rights. It provides, should need arise, for martial law in peacetime, and it anticipates the totalitarian war by the totalitarian peace. At present, only an open rebellion, presumably supported by intervention from abroad, could overturn the existing system of government. In Czechoslovakia, the postulate of democracy at war is fulfilled to the letter.

In weighing the anti-fascist legislation of Czechoslovakia, it may safely be argued that, against all expectation, it has preserved the internal peace of the state, the stability of the Republic, and, with due reservations, also the rule of law, even though it could not inspire loyalty in the hearts of those sections of the popula-

tion which are still averse to the state. Within the limits of the possible, it immunized the state against fascist techniques and prepared the country for defense if and when a final clash of doctrines can no longer be avoided. Manifestly, this anti-fascist legislation has rendered an invaluable service to the peace of Europe.

III

Summary of Anti-Fascist Legislation. The following survey tries to summarize the contents and purposes of anti-fascist legislation in Europe. The principal democratic countries included are France, Belgium, the Netherlands, England, the Irish Free State, Sweden, Norway, Denmark, Finland, Switzerland, and Czechoslovakia. Reference is made occasionally also to Lithuania, notwithstanding that this state clearly belongs to the new type of "authoritarian," or "disciplined," democracy of the Baltic pattern. Space forbids any detailed or exhaustive description, and no juridical evaluation is intended. Although the comprehensiveness of the measures adopted varies from country to country, it will be seen that, without exception, all democracies have resorted to statutory precautions and legislative defense of one kind or another.

As to the political effect of the measures for keeping incipient fascism under control, it may be said that although local conditions are widely different, behind national diversities considerable uniformity is clearly visible, corresponding to the uniformity of the fascist technique in undermining the democratic state. Naturally, the chances of ultimate success in holding the various local fascist movements at bay are proportional to the time of the enactment of restraining measures (whether early or late), the elaborateness of the measures and the skill with which they have been drafted, the prevailing legal traditions and techniques, and, above all, the zeal and determination in enforcement displayed by the administrative and judicial authorities. The appropriate time for enactment was certainly shortly after Germany went National Socialist. Countries which unduly delayed legislation found it increasingly difficult to quell movements that had already cast their spell and taken root in the public attention.

Legislation is usually directed also against subversive movements or groups other than fascist or National Socialist if they are considered detrimental to the democratic state. In the main, however, the laws are drafted in order to match the particular kind of

technique applied by fascism. It should be noted that in democratic countries, with the exception of France, there is, on the whole, no conspicuous permeation of the people by communism. This is true not only because the comparatively high standard of living in democratic countries and the social environment do not encourage it, but also because where radicalism exists it is more or less merged with and absorbed by official moderate socialism, and thus neutralized.

The various legislative measures may be grouped along the following lines:

(1) To deal with open rebellion, insurrection, armed uprising, sedition, extended riots, conspiracy against the state—in short, with every overt act bordering on or falling in the category of high treason—the ordinary criminal codes of all countries are adequately equipped. Unless a state has reached the stage of actual political disintegration, the regular forces of the police or the army are amply sufficient to suppress high treason of individuals or rebellion undertaken by larger groups. As fascism and communism had ample opportunity to learn from experience, a determined government backed by a loyal army is invariably capable of quelling a *putsch* or *coup d'état*, or even an extended insurrection from left or right—for example, the Kapp *putsch* (1920) and the Hitler *putsch* (1923) in Germany; the Gayda *putsch* in Czechoslovakia (1926); the Larka uprising in Estonia (1935); the Mäntsillä uprising in Finland (1931–32); rebellions in Austria (1934), Spain (1934), Greece (1935), Ireland (1935); the military revolt on board the *De Zeven Provinciën* in the Dutch East Indies (1933). Hence, the fascist strategists have grown particularly careful not to commit any overt act of rebellion until the subtler and studiously lawful methods of undermining the state and establishing the atmosphere of double legality warrant the ultimate seizure of power by *coup d'état*. Nevertheless, several democracies have deemed it advisable to strengthen their criminal codes or to introduce special legislation against high treason (Czechoslovakia in 1923 and after, Belgium in 1934). Similar provisions were proposed in Switzerland (1934 and 1936). In addition, most states are prepared to make full use of martial law, and of extraordinary powers for state of siege, in case of a rebellion spreading over their territories.

(2) The most comprehensive and effective measure against fascism consists in proscribing subversive movements altogether.

Only in isolated instances is legislation drafted so as to prohibit specifically named parties. This was the case when, in 1933, Austria proscribed both National Socialism and communism, together with their affiliated organizations. As a rule, however, such legislation is formulated very carefully in order to avoid open discrimination against any particular political movement, thereby maintaining, at least nominally, the democratic principles of equality before the law and due process under the rule of law. Thus not even the anti-communist statutes in Finland, Latvia, and Lithuania singled out left extremism for prohibition, although the communists were the obvious target. To have sinned glaringly against the fundamental democratic tenet of political equality is the doubtful distinction of the oldest and most venerable democracy, i.e., Switzerland. The federal Public Order Bill, proposed by the Federal Council in December, 1936, tried to outlaw the Communist party alone by naming it explicitly as dangerous to the state—a wholly unjustified discrimination which so stirred public opinion that the bill had to be changed, during the parliamentary debates in the Ständerat, into a general ban of all subversive movements. While public resentment against such crude violations of democratic traditions had not yet subsided, the cantons of Neuchâtel and Geneva outlawed, by cantonal acts of 1937, the Communist party within their borders. Although in an ultra-bourgeois country like Switzerland communism has perhaps less chance than in any other European democracy, the anti-communist law was accepted by referendum by a large majority in Neuchâtel, and a similar result may be expected in Geneva. A statute which openly discriminated against communism was passed in March, 1937, in the Canadian province of Quebec (the so-called "Padlock Bill"), and also one in Luxemburg in April, 1937.

With these exceptions, anti-extremist legislation in all democratic states applies the ban indiscriminately to all political groupings which fall under the general category of a subversive party, an unlawful association, or an organization inimical to the state. Specific legal definitions of what constitutes a subversive party or organization are usually avoided. The fact, however, that a group, by its organization or aims, intends or is prepared unlawfully to usurp functions ordinarily belonging to the regular state authorities is as a rule sufficiently indicative of its subversive character. The decision as to whether a group is to be declared

illegal lies with the discretionary power of the government, subject, in some countries, to an appeal to a court of the last instance. "Guilt by association" is generally deemed sufficient, even if malicious intent or knowledge of the subversive aims of the association cannot be proved against the individual member. *Groupements de fait* are treated as regularly constituted political parties or organizations—a provision which strikes a blow at the ominous notion of the "movement" as distinguished from an ordinary political party. Reconstituting a proscribed party under any pretense whatsoever is a crime. This measure has not proved sufficient, however, to prevent outlawed parties from experiencing rebirth as officially constituted, and therefore legally recognized, parties. Illustrations are furnished by the reappearance in Czechoslovakia of the German National Socialists as "Sudetendeutsche Partei," of the French *Croix de Feu* as the French Social party (at present under judicial investigation), and of the Iron Guard in Rumania as an "All-For-The-Country party." At any rate, if the prohibition of a party is coupled with the outlawing of military party activities, the actual danger of creating a double legality is alleviated to a considerable extent. Consequences of the dissolution of a party are eventually confiscation and liquidation of its property (Czechoslovakia (1933), France (1936), Great Britain (1936)).

In this connection, the situation in Switzerland again deserves attention. In March, 1934, a federal Public Order Bill—on the whole moderate and dealing only with actual gaps in existing federal legislation—was rejected by referendum. The proposal was aimed at subversive associations only in so far as they frustrated or impeded measures of the authorities by unlawful means or arrogated to themselves official powers, and it did not interfere with political parties proper. A similarly restricted cantonal measure failed in 1934 in Zürich, while in the canton of Ticino, obviously more exposed to fascist propaganda from neighboring Italy, an appropriate statute was carried in the same year. In December, 1936, the Federal Council submitted to the federal parliament a new and far more sweeping draft of a resolution styled "For the Protection of Public Order and Safety," which, if adopted, will provide Switzerland with an elaborate and comprehensive system of legislative and administrative defense against subversive activities, second in Europe only to the armory of defense existing in Czechoslovakia. The proposal was characterized as "urgent,"



which, according to the Swiss constitution, implies that the bill, after acceptance by both houses of the federal parliament, should not be submitted to the referendum otherwise prescribed for federal bills. Conspicuous features of the draft proposal are the outspoken and admitted discrimination against the Communist party which has been mentioned, and, in addition, the fact that it couples sound legislative devices for the protection of democracy against subversive movements with far-reaching provisions intended to prevent incitement to disaffection among the armed forces. Even reasoned criticism of the army can be punished severely. Public opinion, including large sections of the Right bourgeoisie, is strongly opposed to the measure, which manifestly goes far beyond the scope of protecting the legally constituted government against subversive methods and cuts deeply into Swiss liberal traditions. In view of this widespread resentment, the fate of the proposal is at the time of writing doubtful. The National Council shelved discussion until the spring session of 1937, thereby denying the "urgent" character of the bill which the government, evidently shying from a popular vote, seems unwilling to waive. Although even during the debates in the Ständerat drastic modifications were adopted, separating partisan intentions from general protective measures, the bill might scarcely fare better than its predecessors if submitted to the people. In the meantime, it is evident that the Swiss democracy is not protected adequately against infiltration by the fascist technique of propaganda. It may be added to the record here that the present Federal Council is itself by no means beyond suspicion of pro-fascist leanings, and that the "Red-menace" scare has driven large sections of the Swiss bourgeoisie into an almost hysterical blindness toward the danger from fascism.

(3) All democratic states have enacted legislation against the formation of private para-military armies of political parties and against the wearing of political uniforms or parts thereof (badges, armlets) and the bearing of any other symbols (flags, banners, emblems, streamers, and pennants) which serve to denote the political opinion of the person in public. These provisions—too light-heartedly and facetiously called "bills against indoctrinary haberdashery"—strike at the roots of the fascist technique of propaganda, namely, self-advertisement and intimidation of others. The military garb symbolizes and crystallizes the mystical

comradeship of arms so essential to the emotional needs of fascism. More or less identical "blouse-laws" were passed in Sweden (1933), Norway (1933), Denmark (1933), Finland (1934), the Netherlands (1934), Czechoslovakia (1933 and 1936), Switzerland (1933), Austria (1933), Belgium (1934), and, very belatedly and only under the provocation of deliberate disturbances of the peace caused by Mosley's Blackshirts, in England (1936). For the sake of comparison, it may be mentioned that prior to 1933 no stronghanded action was taken in Germany against political uniforms and the formation of private armies, partly because of political weakness and actual connivance of the authorities of the Reich, unwilling to discriminate against a "national" movement, partly because of constitutional jealousies arising from the police power of the states. A federal ordinance of the Reich-president, finally enacted in the spring of 1932, was repealed after less than two months. No action at all was taken in Spain; and in the Irish Free State, an anti-uniform bill was rejected by the Senate (1934), which led ultimately to the abolition of that body.

(4) While uniforms are usually the manifest sign of an organization operating on military lines, it is even more important for democratic states to forestall the formation of military bands or private party militias. Created originally as "stewards" for the protection of party rallies from undesirable interruptions and as bodyguards for the "leaders," they have a tendency to grow into private armies for offensive purposes and to prepare for the ultimate seizure of power. Thus they constitute intolerable competitors of the state's own armed forces. Many states, therefore, have prohibited the formation of private armies, party militias, and bands for any purpose whatsoever, as stewards or as assault troops or as bodyguards, as in Sweden (1934), Denmark (1934), Belgium (1934), the Irish Free State (1934), the canton of Zürich (1934), France (1936), Holland (1936)—proposed also in Switzerland (1936). Equally detrimental to public authority are military exercises and military training not controlled and supervised by the state, even when practised by men without uniforms. Consequently, the prohibition of party uniforms should generally be accompanied and supplemented by making military training by unauthorized persons illegal. Such statutes were passed in Belgium (1934), the canton of Zürich (1934), Great Britain (1936), and France (1936).

(5) All democracies have taken legislative precaution against illicit manufacture, transport, wearing, possession, and use of fire-arms or of other offensive weapons of any kind, or they have strengthened already existing prohibitions (Czechoslovakia [1923], Belgium [1934], France [1936], Great Britain [1937]). In Switzerland, after provisions included in a federal statute had been rejected by the referendum of 1935, some of the cantons, e.g., Zürich, Fribourg, St. Gall, and Basle City, stepped into the gap. The ultimate efficacy of such measures, however, continues rather dubious, even if police and army remain loyal to the state, because during these turbulent years of political strife in Europe large quantities of arms have changed hands in countries through smuggling, hiding, and secret storage. Complete internal and private disarmament is at best difficult when a general and official armament race is on; but a vigilant police force should be in a position to prevent at least any large-scale accumulation of arms in private hands.

(6) A series of new statutes deal with the abuse of parliamentary institutions by political extremism. Taken together, these measures constitute the first and, as yet, rather timid effort for safeguarding the parliamentary technique from being utilized for purposes of subversive propaganda and extremist action. When the Rexist "leader," Léon Degrelle, in March, 1937, forced the resignation not only of the acting member of the Rexist party for the arrondissement of Brussels, but also of the substitute nominees on the Rexist party ticket, solely for the purpose of causing a by-election in which he could advertise as a legitimate party candidate the aims of the fascist party, the Belgian Parliament passed a law by which such frivolous by-elections are prohibited in the future. A constitutional amendment in the Netherlands, adopted in April, 1937, by overwhelming majorities in both chambers, permits the exclusion from representation in political bodies (national, provincial, and communal) of adherents of subversive parties who advocate alteration of the existing form of government by unlawful means. Extremist groups may thus be deprived of their official spokesmen, the edge thereby being taken off subversive propaganda, particularly since another constitutional amendment, enacted simultaneously, restricts also the parliamentary immunity, which no longer can be used for treasonable activities. Although these amendments are still subject to acceptance by two-thirds of

the new chamber, there is no doubt that this sound reform will reach the statute-book in due course. Similarly, the new French press law, at present under consideration in the Senate, makes it impossible for legally responsible editors to escape prosecution for seditious propaganda or other unlawful activities under cover of parliamentary immunity. As in the Netherlands, the Czechoslovakian statute of 1933 declares the mandates of representatives of subversive parties forfeited, and in both countries such vacancies are not filled until the next election, in which, in Czechoslovakia, parties dissolved because of their subversive aims cannot participate.

(7) Other recently passed measures of democratic states aim at curbing excesses of political strife. The ordinary criminal codes or the common law of most countries (Sweden, Norway, Finland, the Netherlands, Great Britain, also Germany before 1933) contain provisions dealing with incitement to violence or hatred against other sections of the population. In addition, it became necessary to alleviate political acrimony when it was directed against persons or classes of persons or institutions usually singled out for attack by fascism. Many states have provided remedies by forbidding incitement and agitation against and baiting of particular sections of the people because of their race, political attitude, or religious creed—in particular, because of their allegiance to the existing republican and democratic form of government (Czechoslovakia [1933], the Netherlands [1934], also the Canadian province of Manitoba [1934]). While statutory protection was thus given, in the main, to religions exposed to the anti-religious propaganda of communists, such measures are intended also to prevent or mitigate the violent campaigning against Jews and Marxists. In this connection, it should be remembered that under the Weimar Republic, owing to the ill-advised yet inveterate attitude of the courts in interpreting the criminal code, Jews and Marxists as members of a group were left entirely without protection if they could not prove that the attack was directed personally against the complainant.

(8) Political strife carried by the fascists to the extreme of organized hooliganism made the fundamental right of assembly more or less a sham. Creating disturbances in or wrecking meetings of opposing or constitutional parties not only proved a favorite test of the fighting spirit of militarized parties ("meeting-hall-battles")

—“*Saalschlacht*”), but also deterred peaceable citizens from attending meetings of their own selection. The task of the police to keep peace and order at meetings and public processions became increasingly difficult. The ordinary criminal codes being wholly insufficient to curb the deliberate tactics of extremist parties, more stringent legislation was introduced in Czechoslovakia (1923), Great Britain (1936), and proposed in Switzerland (1936). Many democratic countries, however, are still lagging behind.

A different problem arose when it became obvious that fascist demonstrations, processions, and meetings were held in districts where they could be considered only as a deliberate provocation because of the hostility of the bulk of the people living in these quarters. If, in such cases, disturbances occurred, they were actually created by the opponents. Exploiting this situation was one of the favorite methods of rising fascist movements whereby they could stand on the constitutional right of free processions and assembly. It was only reasonable that new legislation should, in various states, as in Great Britain (1936), and as proposed in Switzerland (1936), subject freedom of assembly to severe restrictions by the police or, as the case might be, by the political authority, in order to avoid provocation and subsequent clash between political opponents.

(9) Perhaps the thorniest problem of democratic states still upholding fundamental rights is that of curbing the freedom of public opinion, speech, and press in order to check the unlawful use thereof by revolutionary and subversive propaganda, when attack presents itself in the guise of lawful political criticism of existing institutions. Overt acts of incitement to armed sedition can easily be squashed, but the vast armory of fascist technique includes the more subtle weapons of vilifying, defaming, slandering, and last but not least, ridiculing, the democratic state itself, its political institutions and leading personalities. For a long time, in the *Action Française*, the finesse of noted authors like Daudet and Maurras developed political invective into both an art and a science. Democratic fundamentalism acquiesced, because freedom of public opinion evidently included also freedom of political abuse, and even malignant criticism was sheltered. Redress had to be sought by the person affected through the ordinary procedure of libel, thereby affording a welcome opportunity for advertising the political intentions of the offender. Democracies which have gone fascist

have gravely sinned by their leniency, or by too legalistic concepts of the freedom of public opinion. Slowly, the remaining democracies are remedying the defect. In some instances, the criminal codes are reformed in order to cope with the misuse of the press and of free speech to foster subversive propaganda or recriminations which affect the dignity of the republican and democratic institutions. New statutes were enacted in Finland (1931) and in the Netherlands (1934). Some countries went so far as to enact laws forbidding the circulation of false rumors; illustrations are Czechoslovakia (1923), Finland (1934), Switzerland (1936), and the new French press law which at the time of writing is under consideration in the Senate. It was made an offense to disparage the existing political institutions, and to offend the dignity of the acting authorities and public organs, in Czechoslovakia (1923), Finland (1930 and 1934), Spain (1932), the Netherlands (1934); also proposed in Switzerland (1936). Especially the republican-democratic institutions and symbols were shielded against defamatory denunciation. All such restrictions on the use of free speech and free press were greeted by fascists with the outcry that the democratic state was violating the very essence of its principles of freedom. But the measures proved effective in curbing the public propaganda of subversive movements and in maintaining the prestige of democratic institutions.

Furthermore, vilifying campaigns against leading personalities of the existing régime had to be checked. In several states, it was made unlawful to indulge in defamatory utterances concerning the president of the republic (Czechoslovakia, 1923) or to detract from the dignity of the republican-democratic symbols (Czechoslovakia [1923 and 1936], Lithuania [1936]). In France, after the shameless campaign against M. Salengro had resulted in the suicide of the victim, the new press law, under parliamentary consideration in 1937, protects leading figures in public life—not only of the existing régime—against slander and libel. Evidence of truth is admitted, but even if a statement is proved, its malignant character makes the author liable to damages. If Belgium had a more stringent political libel law, M. Degrelle could scarcely have boasted that at one time more than two hundred libel suits were pending against him. As happens frequently in anti-fascist legislation, the border-line between unlawful slander and justified criticism as lawful exercise of political rights is exceedingly dim,

and the courts of democratic states are called upon to decide on legal grounds what in fact is a political problem for which a new *ratio decidendi* is yet to be discovered.

(10) More patently subversive is fascism's habit of publicly exalting political criminals and offenders against the existing laws—a practice which serves the twofold purpose of building up the revolutionary symbolism of martyrs and heroes and of defying, with impunity, the existing order. It is still remembered that Herr Hitler, in August, 1933, when the rowdies of his party murdered, under particularly revolting circumstances, a political adversary in Potempa and were sentenced to death by the court, proclaimed his "spiritual unity" with them. Only Czechoslovakia (1923) and Finland (1934) have provided against this practice of morally aiding and abetting the political criminal.

(11) Experience offers ample proof that even a well prepared armed rebellion of extremists from right or left is hopeless if the regular forces of the police and the army remain loyal to the legally constituted government. Therefore, one of the most important tasks of any self-respecting state is that of protecting its armed forces against infiltration by subversive propaganda. In many countries, political activity is altogether prohibited to members of the armed forces. The officers are usually less accessible to communist influence than the rank and file, while they are more inclined to sympathize with fascism because of its attendant nationalism. Thus, fascism is, on the whole, not unfavorably received by the officers of the armed forces. Although most countries possess criminal and military codes designed to curb incitement to disaffection among the armed forces, or have introduced new legislation of this kind (e.g., Czechoslovakia [1923], Belgium [1934], Great Britain [1934], Holland after the revolt on the *De Zeven Provinciën* [1933–34]), such enactments aim manifestly at communism alone, and very little has been done to restrain penetration of the military system by fascist indoctrination.

(12) The best preventive statutes are ineffective if the public officials in general, who, by controlling the key-positions in the administration and by guiding the execution of the laws, are responsible for law enforcement, are not thoroughly loyal to the state from which they draw their livelihood. Whether public officials should be allowed the same freedom of political association and activity as other citizens (as provided for in Article 130 of

the constitution of the deceased Weimar Republic), is a debatable problem. To permit public officials, however, to endorse anti-democratic parties, or actively to support them, would be an undue demand on the generosity of democratic fundamentalism. In a number of states, precautions have been taken against the participation of public officials and employees in any political party, as in Denmark (1932) and Finland (1926 and 1934), or in particular parties considered inconsistent with the democratic and constitutional structure of the state (Switzerland, federal statute [1932] and proposal of 1936, canton of Basle [1936], Lithuania [1934], Holland [1934]). The most drastic provisions designed to curb anti-constitutional activities of public officials of all kinds—including university and school teachers and persons drawing pensions from the state—are again found in Czechoslovakia (1933), where even the compulsory transfer of a judge to another service-position, if not dismissal, is permissible if he is convicted of participating in anti-democratic activities. From this viewpoint, the much debated American statutes prescribing the teacher's oath may win some favor among those who are duly alarmed by their possible anti-democratic implications.

(13) Finally, a specially selected and trained political police for the discovery, repression, supervision, and control of anti-democratic and anti-constitutional activities and movements should be established in any democratic state at war against fascism. By setting up special departments of the police, the Scandinavian countries and Switzerland, possibly also other states, herein followed the example of the dictatorial and authoritarian states. Moreover, in several states, collaboration of all citizens with the authorities in maintaining public order and safety is enjoined by making it an offense not to report to the competent authorities information concerning unlawful or subversive activities.

(14) In recent years of tension between the different doctrines, wide experience has been accumulated to the effect that fascist propaganda is pouring into democratic states from foreign countries with the deliberate purpose of undermining existing constitutional systems. International comity never was more flagrantly violated than by the missionary efforts of the fascist International in carrying political propaganda into other nations. Parrying of subversive activities directed against the state from outside is one of the fundamental, and at the same time most subtle, functions

of the democratic states. It demands both delicacy and determination in order to avoid political and economic retaliation. Apparently, nothing can be done against radio propaganda from foreign transmitters which, in dictatorial countries, are of course agencies of the government. More available to the jurisdiction of the state under fire are police and administrative regulations prohibiting the political activities of foreigners or alien emissaries on the national territory (e.g., as speakers at meetings), the importation or circulation of foreign newspapers of anti-democratic character, the wearing of fascist symbols by foreign visitors or residents, and the prohibition of foreign party organizations within the borders. Neglect of such precautions led to the assassination of the National Socialist Swiss *Landesführer* in Davos in 1936. Appropriate provisions have been enacted in Switzerland, Czechoslovakia, Lithuania, in South West Africa (against Nazi propaganda), and in Cyprus and Malta (against Italian fascism). Switzerland, in 1935, after the kidnapping of the journalist Jacob by agents of the German *Gestapo*, passed a federal statute by which foreign officials are forbidden to arrogate to themselves, on Swiss territory, activities which are reserved to the national or cantonal authorities. In some instances, anti-espionage laws were passed (Czechoslovakia, 1923 and 1936, and Switzerland, 1935). In this connection, mention should be made of the financial support which, to all appearances, flows freely from the headquarters of the fascist International to fascist movements in democratic countries. Even if an effective control of anti-constitutional movements should be found possible, it seems beyond the power of the state to cut off the secret sources of financial contributions through the mediation of private individuals. In continental Europe, public accounting of political parties is completely unknown.

IV

Conclusion. As shown by this survey, democracy in self-defense against extremism has by no means remained inactive. At last, the terrifying spell of fascism's basilisk glance has been broken; European democracy has overstepped democratic fundamentalism and risen to militancy. The fascist technique has been discerned and is being met by effective counteraction. Fire is fought with fire. Much has been done; still more remains to be done. Not even the maximum of defense measures in democracies is equal to the mini-

mum of self-protection which the most lenient authoritarian state deems indispensable. Furthermore, democracy should be on its guard against too much optimism. To over-estimate the ultimate efficiency of legislative provisions against fascist emotional technique would be a dangerous self-deception. The statute-book is only a subsidiary expedient of the militant will for self-preservation. The most perfectly drafted and devised statutes are not worth the paper on which they are written unless supported by indomitable will to survive. Whether successful defense is ultimately possible depends on too many factors to be discussed here. National traditions, economic considerations, the social stratification, the sociological pattern, and the specific juridical technique of each individual country, as well as the trend of world politics, come into play. In order definitely to overcome the danger of Europe's going wholly fascist, it would be necessary to remove the causes, that is, to change the mental structure of this age of the masses and of rationalized emotion. No human effort can force such a course upon history. Emotional government in one form or another must have its way until mastered by new psycho-technical methods which regularize the fluctuations between rationalism and mysticism.

Perhaps the time has come when it is no longer wise to close one's eyes to the fact that liberal democracy, suitable, in the last analysis, only for the political aristocrats among the nations, is beginning to lose the day to the awakened masses. Salvation of the absolute values of democracy is not to be expected from abdication in favor of emotionalism, utilized for wanton or selfish purposes by self-appointed leaders, but by deliberate transformation of obsolete forms and rigid concepts into the new instrumentalities of "disciplined," or even—let us not shy from the word—"authoritarian," democracy. Whether this goal is reached by transubstantiation of the traditional parliamentary techniques, as in Belgium, Czechoslovakia, and, last but not least, Great Britain, or by the straightforward devices of constitutional reform, as in the Irish Free State or in Estonia, is perhaps of secondary importance when compared with the immediate end, namely, that those who control the emotionalism of the masses should be made, by constitutional processes, ultimately and irrevocably responsible to the people.

In this sense, democracy has to be redefined. It should be—at

least for the transitional stage until a better social adjustment to the conditions of the technological age has been accomplished—the application of disciplined authority, by liberal-minded men, for the ultimate ends of liberal government: human dignity and freedom.

In the meantime, since a majority of the people in all democracies under observation is still averse to the fascist mentality, the least that ought to be expected is that the governments in charge of the constitutional processes should be willing to meet and defeat the fascist technique on its own battle-ground. The first step toward the much-needed democratic International is awareness of the common danger, coupled with recognition of what has been done in the way of defense by other nations in similar predicaments. To neglect the experience of democracies deceased would be tantamount to surrender for democracies living.

Obviously, no country whatever is immunized from fascism as a world movement. Once this incontrovertible fact is recognized, the question suggests itself as to whether legislative measures against incipient fascism are perhaps required in the United States. To investigate possibilities in this direction would be beyond the limits of the present study. If, however, the question be answered in the affirmative, a second problem becomes that of devising federal or state anti-extremist legislation in conformity with the elaborate fundamentalism of constitutional rights enshrined in the American constitution.

STATE CONSTITUTIONAL LAW IN 1936-37

J. A. C. GRANT

University of California at Los Angeles

The invalidation and consequent abandonment of the N.I.R.A. did not bring to an end the trends of which it was, in fact, merely a manifestation rather than a cause. Section 7a had its precursors in the Railway Labor Act of 1926,¹ the Norris Anti-Injunction Act of 1932,² and similar state laws,³ and has been carried over in the National Labor Relations Act.⁴ The price maintenance provisions of the codes were the result of years of effort on the part of the American Fair Trade League to legalize resale price maintenance contracts. Today, various state Fair Trade Acts⁵ go much farther than the codes dared to go in establishing resale price maintenance even apart from privity of contract. Trade associations have continued their efforts to "rationalize" industry through the collection of statistics on capacity, production, sales, and prices, trusting that the courts will permit this to be done through a more liberal interpretation of the anti-trust laws. Pending further national legislation to be built upon the broader interpretation of the commerce power enunciated in the Labor Relations Act decisions,⁶ business efforts to set minimum prices have been carried on under a mantle of state and local legislation. Various trades and professions, desiring to carry forward their efforts to standardize minimum working conditions and professional practices in their fields, have also sought the aid of the states and of their local governments. Consequently, much of the work of the state courts during the year 1936-37 concerned the validity of these undertakings. There was also the normal run of cases in the various fields of state constitutional law. As last year (see this REVIEW, Aug., 1936, pp. 692-712), the decisions will be discussed under the following headings: (1) separation and delegation of powers; (2) inter-governmental relations; (3) individual rights: procedural; (4) individual rights: substantive; and (5) fiscal powers.⁷ However, the nature of the material has necessitated a complete rearrangement of the subject-matter within each heading.

¹ U. S. Code, title 45, ss. 151 ff.

² *Ibid.*, title 29, ss. 101 ff.

³ Brissenden, "Genesis and Import of the Collective Bargaining Provisions of the Recovery Act," in *Economic Essays in Honor of W. C. Mitchell* (1935), p. 29.

⁴ U. S. Code, title 29, ss. 151 ff.

⁵ "The Fair Trade Laws" (1936), 36 *Columbia Law Rev.* 293.

⁶ *National Labor Relations Board v. Jones and Laughlin Steel Corp.*, 57 S. Ct. 615 (April, 1937), and accompanying cases.

⁷ I am indebted to Mrs. G. C. Bell, research assistant in political science, for a preliminary selection of cases for this article. They were chosen from those reported in the advance sheets from May, 1936, to May, 1937. Unless otherwise indicated, the decision was rendered by the court of last resort of the state concerned. In Okla-

I. SEPARATION AND DELEGATION OF POWERS

Delegation of Legislative Power to Private Groups. Few individualists are so rugged as to refrain from utilizing government to their own advantage. Yet there is danger lest the forces thus set in motion get out of control. Hence the desire to make governmental activity directly dependent upon the wishes of those who supposedly constitute the governed class. The California Agricultural Prorate Act of 1933⁸ is a typical example of the result. Before any action can be taken under it, a petition signed by not less than 50 producers of the commodity concerned, or by not less than two-thirds of the total number of producers, whichever figure is the smaller, must be filed with the Prorate Commission. Following a hearing and certain findings of fact, the commission is then authorized to issue one primary and several secondary certificates to each producer, the former indicating the amount of the commodity which he is entitled to harvest or otherwise prepare for market, the latter being used to control the time and volume of such harvesting or preparation. The program must be terminated at the close of the marketing season if there is "filed with the commission an application for the termination signed by not less than 40 per cent of the producers or of the production (*sic*) of the prorated commodity."

The act was passed at the request of the citrus industry, and its application to the marketing of lemons is typical of the rôle it was intended to play. Practically all of the lemons sold in the United States are grown in California. Whereas the market normally absorbs about 16,500 carloads, the total production may run to nearly double that figure. Starting in 1925, the members of the California Fruit Growers Association, controlling approximately 90 per cent of the total acreage, voluntarily entered into a prorate agreement whereby the surplus was diverted to by-products at less than the cost of production, the processing and sale of the balance being so timed as to guard against periodic gluts and famines in the market. This private plan resulted in the producers of the remaining 10 per cent of the crop gaining nearly 20 per cent of the total sales. Under the Prorate Act, members of the Fruit Growers Association can secure their 90 per cent of the market while retaining power to cancel the entire program at any time they see fit to do so.

Similar provisions are contained in some of the milk control acts. Thus the Virginia statute⁹ provides: "The commission shall withdraw the

homa and Texas, decisions of the court of criminal appeals, although a specialized court of last resort, also are indicated.

⁸ *Laws of California*, 1933, p. 1969, sustained in *Agricultural Prorate Commission v. Superior Court*, 55 P. (2d) 495 (Feb., 1936).

⁹ *Laws of Virginia*, 1934, c. 357, sustained in *Reynolds v. Milk Commission*, 179 S. E. 507 (1935), discussed in this REVIEW, Vol. 30, p. 707.

exercise of its powers from any market upon written application of a majority of the producers (measured by volume) of milk produced and a majority of the distributors (measured by volume of milk distributed) in said market acting jointly." When Alabama¹⁰ authorized its larger cities to regulate the minimum prices to be charged by those engaged in certain "service trades," including barbers and cleaners, it made the exercise of this power hinge upon the filing of a petition signed by "the owners, operators, or managers of not less than 60 per cent of the business establishments in any such service trade in any such city" requesting such legislation. California¹¹ required the signatures of not less than 80 per cent. In none of the cases arising under these statutes have the courts paid the least attention to the issue of delegation raised by these provisions. Only a lower California court¹² so much as mentioned this provision, and then only to remark: "It seems obvious that the mere request, even the unanimous request, of those persons engaged in a certain calling for special legislation applicable to that calling cannot in itself change the constitutional character of that legislation." On the other hand, the Maryland court¹³ seized upon a much milder requirement in the milk control act of that state, forbidding the commission to act until requested to do so "by a substantial proportion of the producers and/or consumers and/or distributors in any marketing area," as an excuse for invalidating the entire statute. This would seem to leave the future of such provisions decidedly unsettled.

Delegation of Legislative Power to the Electorate. The Alabama legislature sought to pass two statutes, the first repealing the prohibitory liquor law and the second levying a general sales tax, neither of which was to become effective until approved by the voters in the forthcoming election. Dividing four to three, the majority of the court advised the legislature that the proposed referendum on the liquor act was constitutional.¹⁴ They frankly conceded that "if the decision of the question is to depend upon the weight of judicial authority, it would be against the power to submit the question to the vote of the whole state;" but they preferred "the opinion of some of the most eminent jurists of this country," including

¹⁰ *General Acts of Alabama*, 1935, p. 746. In *Mobile v. Rouse*, 173 So. 266 (March, 1937), discussed *infra*, this act was held to violate the state *due process* clause.

¹¹ *Laws of California*, 1935, p. 2212.

¹² *People v. Osborne*, 59 P. (2d) 1083, 1085 (App. Dept., Superior Ct. of Los Angeles, July, 1936), holding that the act violates the state *due process* clause. See *infra*, p. 676.

¹³ *Maryland Coöperative Milk Producers, Inc. v. Miller*, 182 A. 432, 434 (Jan., 1936).

¹⁴ Opinions of the Justices, 166 So. 710 (March, 1936). Nevertheless the bill was dropped, as the judges also pointed out that the governor's call of the special session was not broad enough to include liquor legislation.

Holmes, who have held otherwise. Adopting the reasoning of Cooley, they argued: "If it is not unconstitutional to delegate to a single locality the power to decide whether it will be governed by a particular charter, must it not quite as clearly be within the power of the legislature to refer to the people at large, from whom all power is derived, the decision upon any proposed statute affecting the whole state? And can that be called a delegation of power which consists only in the agent or trustee referring back to the principal the final decision . . . ?" The dissenting judges stated: "It is our opinion, in accord with the weight of authority . . . and . . . sound reasoning . . . , that the referendum embraced in this bill is a delegation by the legislature of the lawmaking power conferred upon that body by the people . . . , and that such delegation is . . . subversive of our representative form of government."

The minority elaborated this view at greater length in an opinion,¹⁵ rendered the same day, advising that the second act likewise was unconstitutional. Pointing out that the constitution decrees that "the legislative power of this state shall be vested in a legislature," they concluded: "Here is the express constitutional provision for representative government, as distinguished from one of direct legislation by the people." Although conceding that "the power to delegate to counties and cities certain legislative powers relating to local governments is a part of the full legislative powers conferred on the legislature," they felt that state-wide referenda would allow legislators "to evade the responsibility which belongs to their office," and would "soon bring to a close the whole system of representative government which has been so justly our pride." The four majority justices concurred in the conclusion that the proposed referendum was unconstitutional, but solely upon the ground that it was "nothing short of a delegation to individuals, that is, the voters of the state, of the right and duty of levying the tax in question," in violation of the express constitutional mandate that "the power to levy taxes shall not be delegated to individuals or private corporations or associations." In view of the fact that the act repealing the prohibitory liquor law levied heavy taxes upon the liquor traffic and hence, equally with this act, delegated the power to tax to the electorate, this attempted reconciliation is not convincing. Further litigation will be necessary to settle the Alabama rule.

Delegation of Legislative Power to the Administration. Although a lower Pennsylvania court had held¹⁶ that the state milk control act unconstitutionally delegated legislative power to the administrative board, the supreme court, dividing three to two, reversed this ruling with the curt

¹⁵ Opinions of the Justices, 166 So. 706 (March, 1936).

¹⁶ Rohrer v. Milk Control Board, 184 A. 133 (March, 1936).

statement:¹⁷ "Courts which have accepted as constitutional the Public Service Company Law and the Anthracite and Bituminous Mine Codes, and the acts giving authority to the Department of Health to adopt rules and regulations, etc., . . . should not strain at the powers given the legislature's agent, the milk control board, under this act. A moment's consideration must convince an open mind of the impracticability of the General Assembly itself conducting the hearings and arriving at the conclusions necessary for fixing fair rates." The New Hampshire court¹⁸ unanimously held certain portions of the state's milk control act unconstitutional as "an unrestricted delegation of legislative power," but left enough standing to constitute an effective price control device.

In passing a new plumbers' licensing act, New York provided that the local health commissioners "may require as a condition of renewal of any plumber's license issued after January 1, 1920, that the holder . . . qualify for such renewal by successfully passing an examination." When the New York City commissioner issued an order requiring all who had received their certificates of competency after January 1, 1930, to take an examination, this section of the statute was held unconstitutional because it failed to set any standard to guide the commissioner in exercising his discretion.¹⁹ It should be an easy task to repair the act to meet this objection.

Judicial Power. The relative success of administrative adjudication of workmen's compensation litigation, coupled with the increased pressure of judicial business, has reduced judicial opposition to what might well be termed the delegation of judicial power to the administration. Nevertheless, an intermediate California appellate court held²⁰ that disputes arising under the Private Employment Agency Act of 1923 cannot be required to be submitted in the first instance to the commissioner of labor, even though this might be followed by a trial *de novo* in a regular court. The Idaho court held²¹ that the tax commissioner cannot be authorized to determine the amount due under the sales tax from a defaulting taxpayer, this award, plus a penalty, becoming a lien on the property of the alleged defaulter. For reasons not clearly stated, this conclusion was reached in the name of due process rather than under the doctrine of the separation of powers.

At least 13 states have passed statutes essentially similar to, if not identical with, the Norris Anti-Injunction Act.²² Although the Massa-

¹⁷ *Rehrer v. Milk Control Board*, 186 A. 336, 345 (June, 1936).

¹⁸ *Opinions of the Justices*, 190 A. 713 (March, 1937).

¹⁹ *Segnious v. Rice*, 6 N. E. (2d) 91 (Dec., 1936).

²⁰ *Collier v. Astor*, 56 P. (2d) 602 (April, 1936).

²¹ *Johnson v. Diefendorf*, 57 P. (2d) 1068 (May, 1936).

²² See *supra*, note 2. The state statutes are collected in 63 P. (2d) 1104, 1106-7 (1936).

chusetts²³ and New Hampshire²⁴ courts had rendered advisory opinions to the effect that such an act would be unconstitutional, the Indiana,²⁵ Louisiana,²⁶ and Wisconsin²⁷ acts were soon sustained. The Oregon court, in a pair of decisions,²⁸ has since sustained that state's act. The leading opinion, after pointing out that the question "whether such legislation is in the best interests of the commonwealth is a legislative and not a judicial" one, ventured the assertion that "whatever may be the best solution of the problem, we are convinced it is not through government by injunction," and that these statutes mark "the dawn of a new era in the domain of labor injunctions." The Washington court, on the other hand, dividing six to three, chose to protect the right of the courts to issue injunctions in labor disputes without satisfying the requirements of this statute.

This decision²⁹ is one of the most significant of the year. Reasoning from the premise that "what the legislature has not given, it cannot take away," the majority proceeded to prove that the right to issue injunctions is an inherent power of courts of equity. The requirements of a finding, prior to the issuance of an injunction, that the public officers charged with the duty of protecting the complainant's property are unable or unwilling to furnish adequate protection was considered especially arbitrary in that "it makes the power of the court dependent upon the inability or unwillingness of public officials to function." The dissenting judges' view that it merely required a finding, in keeping with the normal rules, that there is no adequate remedy apart from equity, was ignored. The majority also held that, when injunctions have been issued, the legislature cannot grant those accused of violating them a trial by jury, since this constitutes "a substantial abridgment of the inherent powers of the court" to punish for contempt in a summary proceeding. The apparently contrary ruling in *Michaelson v. United States*, 266 U. S. 42 (1924), was distinguished on the ground that Washington trial courts, unlike those

²³ *Opinions of the Justices*, 375 Mass. 580, 176 N. E. 649 (1931). The legislature, however, passed the statute.

²⁴ *Opinions of the Justices*, 86 N. H. 597, 166 A. 640 (1933).

²⁵ *Scopes v. Helmer*, 205 Ind. 596, 187 N. E. 662 (1933).

²⁶ *Dehan v. Hotel and Restaurant Employees Local*, 159 So. 637 (La. App., 1935).

²⁷ *State Federation of Labor v. Simplex Shoe Mfg. Co.*, 215 Wis. 623, 256 N. W. 56 (1934), followed in *American Furniture Co. v. Int'l Brotherhood etc.*, 268 N. W. 250 (June, 1936). And see *Fenske Bros. v. Upholsterers' Int'l Union*, 358 Ill. 239, 193 N. E. 112 (1934), certiorari denied, 295 U. S. 734 (1935), and *Levering and Garrigues Co. v. Morrin*, 71 F. (2d) 284 (C.C.A. 2, 1934), certiorari denied, 293 U.S. 595 (1934).

²⁸ *Wallace Co. v. Int'l Assoc. of Mechanics*, 63 P. (2d) 1090, and *Starr v. Laundry and Cleaners Local*, 63 P. (2d) 1104, both decided December 29, 1936.

²⁹ *Blanchard v. Golden Age Brewing Co.*, 63 P. (2d) 397 (Dec., 1936).

in the federal system, are created by the constitution rather than by statute.

In *Commonwealth v. Harrington*,³⁰ the Kentucky court held that the legislature may authorize the judges of the court of last resort to regulate, by court order, the practice of law and the grounds and procedure for disbarment. The opinion intimated that the court would have this power even in the absence of statute. The Minnesota court³¹ went a step further, ruling that "a court which is authorized to admit attorneys has inherent jurisdiction to suspend or disbar them. This inherent power . . . cannot be defeated by the legislative or executive department. The removal or disbarment of an attorney is a judicial act." It held that a statute prohibiting disbarment proceedings "unless commenced within the period of two years from the date of the commission of the offense or misconduct complained of" was "an attempted projection of legislative power into the judicial department." Earlier decisions following the procedure established by statute were explained on the basis of comity. In an opinion³² written on behalf of the Missouri court, Judge Frank took the final step, insisting that "comity between the separate departments would be best promoted by strict adherence to the constitution." He concluded that "the power to define and regulate the practice of law is . . . judicial and not legislative," even though it relates to practice before the Public Service Commission rather than the courts; and held that a corporation, since it cannot appear in person, must act in legal matters through licensed attorneys. Hence, various officers of the Missouri Pacific Railroad who had appeared before the Public Service Commission on behalf of the corporation, not being attorneys, were found guilty of contempt. The other judges concurred in the result, but solely on the ground that under existing statutes the defendants were not qualified to appear before the commission. However, the opinions were written and published in such a way as to give the impression that Judge Frank's opinion is the opinion of the court.

II. INTERGOVERNMENTAL RELATIONS

The Nation and the States. When the Nebraska legislature levied a tax, the collection and disposition of which were to hinge upon the ultimate passage of the national Social Security Act, the state court held³³ the statute unconstitutional as "a delegation of legislative power to the Congress of the United States." Stating that "the legislature cannot

³⁰ 98 S.W. (2d) 53 (Nov., 1936).

³¹ *In re Tracy*, 266 N.W. 88 (March, 1936).

³² *Clark v. Austin*, 101 S.W. (2d) 977 (Feb., 1937).

³³ *Smithberger v. Banning*, 262 N.W. 492 (1935), discussed in this REVIEW, Vol. 30, p. 695.

delegate the sovereign powers of the state to . . . a foreign jurisdiction," it intimated that neither the going into force nor the termination of a state law can be made dependent upon future national action. Dividing five to four, the Washington court²⁴ reached a similar conclusion, but on different grounds. The state unemployment insurance act, passed in March, 1935, contained the provision: "This act is to become operative . . . from and after the enactment date of the Wagner-Doughton bill which is now before the Congress of the United States." This bill never passed, its place being taken by the Social Security Act. Consequently, the court ruled that, judged by its own terms, the state law never became effective. Although the opinion conceded that "for the purposes of this case, we assume without deciding that a state legislature may provide that a statutory enactment shall become operative upon the enactment date of a federal statute not yet passed by the Congress," it added: "A state legislature in particular must be held to the exercise of its important functions upon knowledge of existing facts and not upon expectations." The dissenting judges, pointing out that "every essential feature of the Wagner-Doughton bill is carried into the Social Security Act," accused the majority of having "charged the legislature with making a fetish of a name" in order "to thwart the most important piece of social legislation that has ever been enacted by the Congress . . . and the state legislatures."

The California Unemployment Reserves Act provides that it "shall take effect only if and when there is enacted legislation by the United States government providing for a tax upon the payment of wages by employers in this state, against which all or any part of the contributions required by this act may be credited," and that it shall cease to be operative whenever the national law is repealed or amended in such manner that the contributions required by the state act or some portion thereof cannot be thus credited. The California court²⁵ unanimously sustained the act. Instead of using these qualifying provisions as the basis of arguments against its validity, the court referred to them in countering the argument of counsel that the state had been illegally coerced by Congress. "It is difficult to perceive," they wrote, "how the alleged federal coercion could apply to a state act passed before the federal law was enacted. Rather it would seem that the state legislature . . . enacted the state law with the hope and expectation of the enactment of a federal law as outlined in the bill then pending in Congress."

Statutes passed after the enactment of the federal law upon which they are made to hinge uniformly have had better success. In sustaining an act providing that it "shall become ineffective with the expiration of

²⁴ *Johnson v. State*, 60 P (2d) 681 (Sept., 1936).

²⁵ *Gillum v. Johnson*, 62 P. (2d) 1037 (Nov., 1936).

the National Industrial Recovery Act and amendments thereto," the Kansas court ruled³⁶ that the "effect of a statute may be quite contingent, according to existing law of another state, according to future law of another state, and according to change in the law of another state," and that the same rules apply where national laws are involved. This seems the logical position to take, since the effect of declaring such a proviso unconstitutional normally would be to leave the state law in force even after the lapse of the national act. It would be difficult, in most cases, to reach the conclusion that the substantive provisions of the act and this proviso are so interwoven that both must fall together. Consequently, those opposed to the current trend of legislation will do well not to attack such provisos.

Even where a state act is passed following the enactment of the federal law, it may be made contingent upon future federal administrative action. Thus Massachusetts, following passage of the Social Security Act, provided that its state unemployment insurance act "shall become operative upon [its] approval . . . by the federal Social Security Board." It also provided that if, after such approval, the national act becomes "inoperative because of unconstitutionality or otherwise, the operation of this act shall thereupon cease." The former clause was held³⁷ to be no more fatal than the latter, the court stating unanimously that "the success of the plan may depend largely upon coöperation between the several states and the federal government. This provision is in harmony with the general design," and does no more violence to the doctrine that legislative power cannot be delegated than do local option acts.

The bearing of federalism upon the constitutional rights of persons accused of crime will be considered in section three.

The State and Its Local Governments. Few of the decisions in this category merit special notice. A California district court of appeal held³⁸ that regulating the procedure to be followed in passing city ordinances is a "municipal affair." Hence, under the California rule, ordinances regulating such procedure prevail over the general laws of the state. New Mexico, in keeping with the general trend, held³⁹ that the governor cannot pardon one who is convicted of violating a city ordinance, since this

³⁶ *Pittsburgh v. Robb*, 53 P. (2d) 203 (Jan., 1936), which concerned a P.W.A. grant to the city. The court refused to write "a treatise on the subject," venturing the opinion that "unctuous repetition or sonorous rephrasing of the dogma" that the legislature may not delegate its power of lawmaking "leads us nowhere."

³⁷ *Hewes Bros. Co. v. Unemployment Compensation Con'n.*, 5 N.E. (2d) 720 (Dec., 1936). Although the original state act was approved August 12, 1935, two days prior to the passage of the Social Security Act, this 1936 amendment may be considered as a qualified reenactment of it.

³⁸ *Potter v. City of Compton*, 59 P. (2d) 537 (July, 1936).

³⁹ *City of Clovis v. Hamilton*, 62 P. (2d) 1151 (Nov., 1936).

does not constitute "an offense against the state." The opinion failed to disclose who, if anyone, can grant such pardons.

III. INDIVIDUAL RIGHTS: PROCEDURAL

Although civil procedure gives rise to few questions of a constitutional nature, the rights of persons accused of crime are a constant source of litigation and an ever-flowing spring of new doctrines. These guarantees will be considered in the order in which they must be asserted in court.

Search and Seizure. The earlier South Dakota cases, like those in all common law jurisdictions, uniformly had accepted evidence however obtained. But in *State v. Gooder*,⁴⁰ decided in 1930, calling attention to "the moral obliquity and vicious tendencies inherent in holding evidence procured by state officers by means of unlawful searches and seizures admissible in prosecutions in the state courts," a closely divided court abandoned the common law doctrine for the rule first championed by the federal Supreme Court and since adopted by a majority of the state courts.⁴¹ Some trial judges, however, continued to follow the earlier precedents. In *State v. McClendon*,⁴² the majority made it clear that it has no intention of returning to them, and held that evidence secured through a search of a private room in a rooming house without a warrant, and not sufficiently contemporaneous to be justified by the arrest, cannot be used.

In an effort to cover the steps by which it reached the present rule, the federal Supreme Court developed the salutary qualification that a motion to suppress the evidence must be made prior to trial unless the defendant is first apprised of the illegal search by facts coming to light in the course of the proceedings. Not all courts following the federal rule accept this qualification. In *Mason v. State*,⁴³ the motion to suppress was not made until the close of the evidence. The Oklahoma court held that this was soon enough. This court frequently sustains motions first made as the trial is about to open,⁴⁴ which would lead one to believe that this procedure has become a common practice in that state. It has been sustained also in Texas.⁴⁵

The Washington court has accepted both the federal rule and the federal qualification of that rule. However, it has narrowed this qualification by the new one:⁴⁶ "Where, by the direct or proper cross-examination of the state's witnesses, it is made to appear, or it is otherwise admitted, that

⁴⁰ 57 S.D. 619, 234 N.W. 610.

⁴¹ See this REVIEW, Vol. 30, p. 702.

⁴² 266 N.W. 672 (April, 1936).

⁴³ 64 P. (2d) 1238 (Okla. Cr., Feb., 1937).

⁴⁴ See *Borchers v. State*, 56 P. (2d) 922 (April, 1936); *Bryson v. State*, 56 P. (2d) 1198 (April, 1936); *Reininger v. State*, 60 P. (2d) 629 (Aug., 1936).

⁴⁵ *Greenway v. State*, 101 S.W. (2d) 569 (Tex. Cr., Feb., 1937).

⁴⁶ *State v. Gunkel*, 63 P. (2d) 376 (Dec., 1936).

the articles which are offered in evidence have been unlawfully seized, it is the duty of the trial court, upon objection, to refuse to receive them in evidence. There being no question of fact under such circumstances, and nothing to require the court to stop in the midst of the trial to try a collateral fact, the court has only to rule on the admissibility of evidence upon admitted or conceded facts." It held, however, that, measured by this standard, the illegality of the search in the case before it was not certain. The opinion gives an excellent summary of the Washington law.

By far the greater portion of all search and seizure cases have involved intoxicants. This continues to be true. Texas law enforcement agents have been particularly embarrassed by the ruling⁴⁷ that *every* search for liquor pursuant to the terms of a search warrant is illegal, the legislature inadvertently or otherwise having repealed the law authorizing the issuance of such warrants. Even the admission of counsel that facts existed justifying the search without a warrant has been held not to validate the use of the evidence when the record failed to disclose these facts.⁴⁸

Search and Seizure: Federalism. McLemore was indicted for the unlawful possession of a distillery. The evidence against him was obtained by agents of the federal government, who raided his plant without a search warrant or other color of right. His motion to suppress was refused⁴⁹ on the basis of the well known doctrine that the state bill of rights forbids only the use by the state of evidence illegally secured by state officers. There is nothing new in this ruling, it being merely one more illustration of the fact that many provisions of our bills of rights are easily evaded by resorting to the doctrine that the nation and the states are "distinct" sovereignties. The appellant also failed to show that his rights had been invaded, as he apparently had no right on the property in question.

Successive Prosecutions. It was once regarded as "an established principle that out of the same state of facts a series of prosecutions against a prisoner is not to be allowed."⁵⁰ Current acceptance of the rule that an act which contravenes the law of different political units is cognizable in the courts of each as a distinct offense⁵¹ has weakened its importance. The death blow has been delivered by the practice of finding a number of distinct crimes against a single government.⁵² Thus the Wisconsin court unanimously ruled⁵³ that "a prosecution for larceny of an automo-

⁴⁷ *Greenway v. State*, 101 S.W. (2d) 569 (Tex. Cr., Feb., 1937).

⁴⁸ *Rane v. State*, 101 S.W. (2d) 1017 (Tex. Cr., Feb., 1937).

⁴⁹ *McLemore v. State*, 172 So. 139 (Miss. Feb., 1937).

⁵⁰ Broom, *Legal Maxims* (9th ed., 1924), p. 231.

⁵¹ See my "The Lanza Rule of Successive Prosecutions" (1932), 32 *Columbia Law Rev.* 1309, and "Penal Ordinances and the Guarantee Against Double Jeopardy" (1937), 25 *Georgetown Law Jour.* 293. And see this REVIEW, Vol. 30, p. 700.

⁵² See "Multiple Punishment Under the Double Jeopardy Rule" (1931), 31 *Columbia Law Rev.* 291. ⁵³ *Schroeder v. State*, 267 N.W. 899, 903 (June, 1936).

bile is not a bar to a subsequent prosecution, based on the same act or transaction, for taking, using, and operating the same automobile on a public highway without the owner's consent, . . . such offense not being a lesser degree of larceny but a distinct statutory offense There are distinct elements constituting the crime defined in one, which are not included in the definition of the other." The California court held⁵⁴ that manslaughter and reckless driving are distinct crimes, even when the first is proved by establishing the second. Refusing to "enter into an extended discussion in an attempt to compose seemingly conflicting views expressed in the decisions," the opinion stressed the fact that "under the manslaughter charge, he could not have been acquitted of manslaughter and convicted of reckless driving They are not the same offenses nor is one . . . necessarily included within the other."

Hope seemingly springs eternal in the breast of defense counsel. Adams was indicted for felonious assault. After the jury was accepted and sworn and the prosecuting attorney had stated the case, the defendant demurred to the indictment. The demurrer was sustained, and a new indictment was immediately secured. Upon arraignment, he pleaded former jeopardy. The plea was rejected, the Kentucky court ruling⁵⁵ that one cannot be in jeopardy "unless the indictment or information be sufficient to sustain a conviction." It might have been refused upon the rule that a prosecution discontinued at the request or with the consent of the defendant cannot be the basis of a plea in bar. In a federal court, only this second ground would be available, the first having been rejected⁵⁶ as unsound.

Jury Trial. The Nevada court once intimated⁵⁷ that a jury cannot be waived in a felony case. In *State v. Mendez*,⁵⁸ this *dictum* was elevated to a ruling, but the opinion stated: "We need not determine whether our state constitution prohibits the waiver . . . because such waiver is clearly inhibited by statute." The North Dakota court held⁵⁹ that when one juror becomes ill, the remaining eleven, if the court, the prosecutor, and the defendant consent, may complete the trial. The ruling was placed upon the reasoning used in the principal opinion in *Patton v. United States*,⁶⁰ which held that a jury, and hence one juror, may be waived. The opinion avoided mentioning the North Dakota statute, which is virtually identical with the one which the Nevada court held prohibits such a

⁵⁴ *People v. Herbert*, 58 P. (2d) 909 (June, 1936).

⁵⁵ *Adams v. Commonwealth*, 92 S.W. (2d) 7 (March, 1936).

⁵⁶ *United States v. Ball*, 163 U.S. 662 (1898).

⁵⁷ *State v. Borowsky*, 11 Nev. 119 (1876), discussed in my "Waiver of Jury Trial in Felony Cases," 20 *Calif. Law Rev.* 132, 142.

⁵⁸ 61 P. (2d) 300 (Oct., 1936).

⁵⁹ *Ex parte Kortgaard*, 267 N.W. 438 (June, 1936).

⁶⁰ 281 U.S. 276 (1930), discussed in 20 *Calif. Law Rev.* 152.

wavier.⁶¹ A similar ruling was rendered by the Michigan court,⁶² whose statutes, however, present no problem in this regard. This reasoning reached its logical fruition in the Illinois case of *People v. Scudieri*,⁶³ which held that the trial may open with less than twelve jurors. In this case, only eleven eligible jurors were available on the panel, and all concerned agreed to proceed with the eleven rather than call in talesmen.

A New Jersey statute of 1935 provides that when a trial seems likely to be protracted, fourteen jurors instead of twelve may be impaneled. It differs from the normal "extra juror" statute in that the additional members are not designated as alternates. If more than twelve survive at the close of the trial, twelve are drawn by lot to decide the case. The act was sustained⁶⁴ as making merely a "formal change but no substantial modification" of the jury system. "In adopting the course it did," the opinion stated, "it may well have been with the thought that fourteen potential jurors, each of whom stood an equal chance of functioning as a juror, would give closer attention to the evidence and to the arguments than would alternate jurors who stood to act only in the remote contingency of disqualification in the twelve first chosen." Without expressing an opinion on this portion of the act, six of the fifteen judges dissented upon the ground that "the broad power given to the court to discharge jurors from the box during the course of the trial is a substantial violation of the jury principle."

Self-Incrimination. While the defendant was under arrest charged with rape, a doctor, accompanied by two or three policemen, went to the jail and made an examination of him to ascertain whether he had gonorrhea. The fact that he did was used in evidence against him, as the prosecuting witness was found to be suffering from a newly acquired case of the same disease. On appeal from a conviction, the Kentucky court ruled⁶⁵ that "if he willingly submitted to the examination and offered no protest or objection thereto, the evidence obtained thereby was competent, but otherwise it was incompetent. . . . The question whether the examination of appellant's person was made with or without his consent should have been submitted to the jury." Similar rulings have been made at various times in Arkansas, California, Iowa, and Missouri.⁶⁶ The federal courts, on the other hand, no doubt would accept such evidence,⁶⁷ as a majority of the state courts would do, under the doctrine that the immunity from com-

⁶¹ See 20 *Calif. Law Rev.* 136.

⁶² *Attorney-General v. Montgomery*, 267 N.W. 550 (June, 1936). See 20 *Calif. Law Rev.* 136. ⁶³ 1 N.E. (2d) 225 (April, 1936).

⁶⁴ *State v. Dolbow*, 189 A. 915 (Feb., 1937).

⁶⁵ *McManus v. Commonwealth*, 94 S.W. (2d) 609 (May, 1936).

⁶⁶ See my "Self-Incrimination in the Modern American Law" (1931), 5 *Temple Law Quar.* 368, 381. ⁶⁷ *Ibid.*, p. 378.

pulsory self-incrimination has no application to the discovery of physical facts or "real" evidence.⁶⁸

To make it possible to enforce its parking restrictions, Detroit provided that when a motor vehicle is involved in a traffic violation, the owner is presumed guilty of the violation unless he takes the stand as a witness or affirmatively shows that the violation was not committed by him. The Michigan court unanimously held⁷⁰ that the ordinance deprives such owner of a constitutional right in that it "compels him to be a witness in proceedings wherein he is being prosecuted." It also held that the presumption, being an unreasonable one, violates due process.

IV. INDIVIDUAL RIGHTS: SUBSTANTIVE

Prohibition of the Sale of Wholesome Articles. In 1888, the federal Supreme Court held⁷¹ that a state may forbid the sale of oleomargarine and other butter substitutes, and in 1904 it stated⁷² that it was still of the same opinion. In 1919, it held⁷³ that a state may prohibit the sale of condensed skim milk, even though the butter fat has been replaced by vegetable fats. The Wisconsin court, in keeping with these opinions, had sustained⁷⁴ an anti-filled-milk act; but in 1927,⁷⁵ in ruling that it violates the state constitution to prohibit the sale of oleomargarine, it rejected the reasoning of its 1922 opinion and, in effect, overruled it. This reversal proved prophetic of the recent trend. The Illinois court⁷⁶ had invalidated an anti-filled-milk act of 1923 because it permitted the sale of oleomargarine, thus violating the guarantee of equality before the law. The 1935 legislature having amended the act to include oleomargarine, the court⁷⁷ invalidated the entire statute. Filled-milk acts likewise were invalidated in Michigan⁷⁸ and Nebraska,⁷⁹ the former court pointing out that due process "guarantees to citizens the general right to engage in any business which does not harm the public . . . [Since] any possibility of fraud, sufficient in extent to be called public, in the sale of a harmless and nutritive food products may be avoided by regulations as to branding, disclosure of ingredients, kinds and marking of containers, requirement that eating places give notice to customers of its use, . . . the remedy necessary to

⁶⁸ *Ibid.*, p. 386.

⁷⁰ (No footnote 69) *People v. Hoogy*, 269 N.W. 605 (Nov., 1936).

⁷¹ *Powell v. Pennsylvania*, 127 U.S. 678. One judge dissented.

⁷² *McCray v. United States*, 195 U.S. 27, 62.

⁷³ *Hebe Co. v. Shaw*, 248 U.S. 297. Three judges dissented.

⁷⁴ *State v. Emery*, 178 Wis. 147, 189 N.W. 564 (1922).

⁷⁵ *Jelke Co. v. Emery*, 193 Wis. 311, 214 N.W. 369.

⁷⁶ *People v. Carolene Products Co.*, 345 Ill. 166, 177 N.E. 698 (1931).

⁷⁷ *Carolene Products Co. v. McLaughlin*, 5 N.E. (2d) 447 (Dec., 1936).

⁷⁸ *Carolene Products Co. v. Thompson*, 267 N.W. 608 (June, 1936).

⁷⁹ *Carolene Products Co. v. Banning*, 268 N.W. 313 (July, 1936).

avoid infringement upon constitutional rights is by way of regulation, not prohibition."

All three opinions made valiant efforts to distinguish *Hebe Co. v. Shaw*, pointing out that it had sustained a statute prohibiting the sale of milk from which a valuable ingredient (butter fat) had been removed, whereas these recent acts prohibit the sale of milk or milk products to which vegetable fats have been added. It would be a simple task to redraft them to meet this objection, but it is doubtful if this would save them. As the Michigan court stated, acceptance of the ruling in the *Hebe Co.* case as a proper interpretation of the due process clause of the state constitution would "whittle away" the rights of the individual under that constitution. If the federal Supreme Court will not protect these rights in the name of the Fourteenth Amendment, these courts stand ready to do so in the name of the bills of rights of their respective states.

There is nothing peculiar in this situation, as state supreme courts, construing duplicate guarantees in their state constitutions, have fairly frequently demanded different standards and thus annulled statutes which the federal Supreme Court would have sustained.⁸⁰ The task of the latter court also has been lightened by the fact that the state courts have struck down many of the more arbitrary laws which otherwise would have come before it for decision. Doubtless the paucity of federal decisions on questions of labor legislation in the period 1886-1905 is to be explained largely on this ground;⁸¹ and it would seem, judging from the cases discussed in the following pages, that we again are passing through a similar period.

Right to Engage in a Trade or Calling. There is no doubt today as to the power of government to regulate admission to such professions as medicine, pharmacy, optometry, or dentistry, and to require proof of adequate preparation and skill before such admission is granted. How much farther the legislature can go is still an open question in many states. The Maryland court held⁸² that it cannot require the examination and licensing of paper-hangers, since this invades "the right to engage in those common occupations or callings which involve no threat to the public welfare . . . to which [one] is entitled as a matter of natural justice and common usage." It added, *obiter*, that it is doubtful "whether the police power of a state is broad enough to even permit it to require plumbers to secure licenses," and that the state's barber act, if not actually unconstitutional, at least marks "the farthest point reached by the tide of regulation of

⁸⁰ The classic example is still *In re Morgan*, 26 Colo. 415 (1899), invalidating a statute similar to the one sustained in *Holden v. Hardy*, 169 U.S. 366 (1898). And see this REVIEW, Vol. 29, pp. 616, 621.

⁸¹ See Pound, "Liberty of Contract", 18 *Yale Law Jour.* 454 (1908).

⁸² *Desch v. Jackson*, 183 A. 534 (Feb., 1936).

labor and industry." This was followed three months later with a ruling⁸³ that the 1935 barber act, whatever might be said of the earlier one, passed the line of reason in that "persons desiring to engage in that occupation are met with requirements entirely out of proportion with the character and purposes of this trade In order to obtain a license . . . , one must have had ten years of educational preparation. He must have been a graduate of the eighth grade and have completed a two-year course in a barber school or a barber shop These are manifestly unreasonable requirements to enter a simple occupation," and indicate "an apparent design, although indefensible and unreasonable, to give to this simple and useful trade the characteristics and standards of a highly technical profession." Hence it held that the act "contravenes the Fifth⁸⁴ and Fourteenth Amendments to the Constitution of the United States and the twenty-third article of the Declaration of Rights of the state of Maryland."

The 1935 Illinois plumber act requires much higher qualifications than ever before have been seriously considered. Although stating⁸⁵ that "it is one of the fundamentals of our democratic form of government that every citizen has the inalienable right to follow any legitimate trade, occupation, or business which he sees fit," the state court evaded passing upon its validity except in so far as it defines plumbing to include drain-laying, which, the court concluded, "is an independent trade." "No citizen," it held, "should be legislated out of his trade and have it awarded to another craft It could be of no material value to a craftsman who confines his labor to that of a drain-layer to be educated in plumbing in all its different ramifications." So far, no court seems to have applied this doctrine to the practice of law.

Price and Wage Regulation. When the Virginia court reversed its previous ruling and followed *Nebbia v. New York*⁸⁶ in holding that the milk industry is so affected with a public interest as to be subject to price regulation,⁸⁷ the last effective opposition to this new movement seems to have given way. The ruling of a lower Pennsylvania court,⁸⁸ holding the Pennsylvania act unconstitutional, was reversed by the state supreme court,⁸⁹ although by the narrow margin of three to two. The minority

⁸³ *Schneider v. Duer*, 184 A. 914 (May, 1936).

⁸⁴ In view of the fact that it is elementary that the first eight amendments apply only to the national government, the frequency with which they are used by state supreme courts as limitations upon state powers is truly shocking. Of course in the case of "due process" the error is purely technical, as the same result could be reached under the Fourteenth.

⁸⁵ *Scully v. Hallihan*, 6 N.E. (2d) 176 (Dec., 1936).

⁸⁶ 291 U. S. 502 (1934), discussed in this REVIEW, Vol. 29, p. 45.

⁸⁷ See this REVIEW, Vol. 30, p. 707.

⁸⁸ See *ibid.*, p. 708.

⁸⁹ *Rohrer v. Milk Control Board*, 186 A. 336 (June, 1936).

could "think of no business that is more essentially private than that of producing and selling milk," and considered the act "an attempt to apply . . . a new social theory which is repugnant to our [state] constitution." The dissenting Alabama judge⁹⁰ insisted that the majority's decision "destroys the liberty of the citizen to contract with reference to his own property," and opens the door to similar control "over butter, bacon, bread, eggs, potatoes, and other necessary articles of food." The Florida,⁹¹ Indiana,⁹² and New Hampshire⁹³ opinions were unanimous, the Florida one stating that although "this court is not bound to follow the Supreme Court of the United States when construing the provisions of our state constitution," still "the decisions of that able and eminent tribunal on questions analogous to those presented to this court have always been considered as strongly persuasive and usually followed." The Indiana opinion, referring to early Indiana statutes, laughed at the blind spots in the "history" advanced by those who contend that such legislation is unprecedented, and warned against the consequences which may follow efforts to thwart normal development by judicial vetoes. The only court to invalidate a milk-control statute was that of Maryland, which placed its ruling upon the doctrine of the separation of powers.⁹⁴

Efforts to set minimum prices for certain service trades have been less successful. In invalidating the state barber act of 1931, a closely divided Florida court⁹⁵ characterized it as "a species of socialistic leveling of merit or capacity in the practitioner wholly inconsistent with the American ideal of encouragement to the worthy and industrious, . . . who would be in a measure coerced by the minimum . . . to charge a price in reality inadequate to compensate him reasonably for the character of service he is capable of rendering." It dismissed the "emergency" plea with the curt rejoinder: "To hold that any of the provisions of the constitution may be suspended during a so-called emergency announces a doctrine leading directly to despotism." Only one judge dissented when the Alabama court⁹⁶ invalidated city ordinances setting minimum prices for barbering services and for cleaning and dyeing, the majority stating: "During the century of Alabama's political existence, no legislature has ever attempted to exercise the power in question—a persuasive argument that

⁹⁰ *Franklin v. State*, 169 So. 295 (June, 1936).

⁹¹ *Miami Home Milk Producers' Ass'n v. Milk Control Board*, 169 So. 541 (July, 1936).

⁹² *Albert v. Milk Control Board*, 200 N.E. 688 (March, 1936).

⁹³ *Opinion of the Justices*, 190 A. 713 (March, 1936).

⁹⁴ See *supra*, p. 661.

⁹⁵ *State v. Ives*, 167 So. 394 (March, 1936). The court divided 3 to 3 on this issue, but one judge concurred in the ruling on other grounds, making the vote 4 to 2 against the statute.

⁹⁶ *City of Mobile v. Rouse*, 173 So. 266 (March, 1937). In the intermediate court, a dissenting judge accused his colleagues of "mere rhetorical play upon ringing phrases." *City of Mobile v. Gibson*, 173 So. 264 (Ala. App., Feb., 1937).

the power has never existed." A lower Delaware court⁹⁷ unanimously invalidated what was virtually an N.R.A. code for the cleaning and dyeing industry, stating that the act "savors of an attempt to establish the ancient guild . . . , operating not so much for the public benefit as for the advantage of its members."

A California municipality undertook to compromise with an ordinance forbidding the advertising of prices for barber services. The appellate department of the Los Angeles superior court held⁹⁸ that this violates freedom of expression as well as due process.

Production and Marketing Control. In sustaining the Agricultural Prorate Act, discussed in section one, the California court⁹⁹ rejected the contention that merely because it "absolutely prevents the marketing by every lemon grower in the state of any portion whatever of his lemon crop except as the program committee may determine to be advisable," it constitutes an unjustifiable interference with liberty of contract. Pointing out that the "benefit will be enjoyed ratably by all" and the "burden or detriment will rest equally upon all," it concluded that the act is an entirely reasonable effort to cure the unfair features of the voluntary program of previous seasons.

Closing Hours and Maximum Hours of Labor. The California court invalidated municipal ordinances undertaking to prevent the night or early morning delivery of bakery goods¹⁰⁰ or laundry.¹⁰¹ Both ordinances were held to violate the state and federal due process and equal protection clauses. It also held¹⁰² that the legislature cannot require barber shops to close evenings, Sundays, and holidays without imposing similar limitations upon business in general. The opinion stated: "While we are in accord with the belief that we have arrived at a stage in our economic life, due to the progress of industry and the development of machinery, when long hours of labor are no longer necessary and are not desirable, nevertheless we cannot escape the conclusion that a law which singles out a single profession or calling for regulation of such matters is special legislation, and repugnant to the federal and state constitutions."

The Ohio court¹⁰³ invalidated an ordinance setting closing hours for grocery stores. Distinguishing its earlier opinion¹⁰⁴ sustaining such legisla-

⁹⁷ *Becker v. State*, 185 A. 92 (Del. Super., May, 1936). And see *Kent Stores v. Wilentz*, 14 F. Supp. 1 (D.C., N.J., March, 1936).

⁹⁸ *People v. Osborne*, 59 P. (2d) 1083 (July, 1936).

⁹⁹ *Agricultural Prorate Com'n v. Superior Court*, 55 P. (2d) 495 (Feb., 1936).

¹⁰⁰ *Skaggs v. City of Oakland*, 57 P. (2d) 478 (April, 1936).

¹⁰¹ *Ex parte Mark*, 58 P. (2d) 913 (June, 1936).

¹⁰² *Ex parte Scaranino*, 60 P. (2d) 288 (Sept., 1936). A similar ruling had been rendered in *Ex parte Boehme*, 55 P. (2d) 559 (Cal. App., March, 1936).

¹⁰³ *Olds v. Klotz*, 3 N.E. (2d) 371 (July, 1936).

¹⁰⁴ *Wilson v. City of Zanesville*, 130 Ohio St. 286, 199 N.E. 187 (1935). Two judges dissented.

tion as applied to barber shops, it stated that the latter is justifiable as a health measure, whereas "the limitation of hours that products of that kind [groceries] may be sold by retail to the public seems to be of minor consideration in relation to the public health in comparison with the necessity of having food available." Thus it appears that in California an hours law for barbers is unconstitutional unless coupled with a general law, whereas in Ohio this coupling would render it invalid. There is also an apparent conflict between the California bakery and laundry opinions and the barber case in so far as the former are based upon due process rather than equal protection.

Social Insurance. The state courts have seemed more than willing to shift to the federal Supreme Court the burden of deciding upon the validity of social insurance. The California¹⁰⁵ and Massachusetts¹⁰⁶ courts sustained their state unemployment insurance acts unanimously, and the New York court¹⁰⁷ rendered a similar verdict by a five to two vote. The only court to invalidate such a statute evaded the basic issues at stake,¹⁰⁸ leaving open the question of the validity of a new statute. It would seem reasonably safe to predict that the federal Supreme Court's favorable rulings of May 24,^{108a} although five to four, have settled the validity of unemployment insurance and with it of social insurance in general.

Miscellaneous Due Process and Equal Protection Cases. The Michigan court held¹⁰⁹ that even a *prima facie* presumption that the owner of an automobile was driving when a traffic violation was committed is so unreasonable as to be unconstitutional. The Georgia court was of opinion¹¹⁰ that it is valid to require stock insurance companies to compensate their agents by commissions only, while permitting mutual companies to pay their agents on a salary basis. In one of the most curious decisions of the year, the Alabama court held¹¹¹ that "the owner has the right to come and

¹⁰⁵ *Gillum v. Johnson*, 62 P. (2d) 1037 (Nov., 1936).

¹⁰⁶ *Howes Bros. Co. v. Unemployment Compensation Com'n.*, 5 N.E. (2d) 720 (Dec., 1936). *Certiorari* denied, 57 S. Ct. 434 (Feb., 1937). Both this and the preceding case were discussed *supra*, p. 666.

¹⁰⁷ *Chamberlin v. Andrews*, 2 N.E. (2d) 22 (April, 1936), affirmed by an equally divided court, 57 S. Ct. 122 (Nov., 1936).

¹⁰⁸ *Johnson v. State*, 60 P. (2d) 681 (Wash., Nov., 1936). See the discussion of this case *supra*, p. 666.

^{108a} *Carmichael v. Southern Coal and Coke Co.*, 57 S. Ct. 868; *Stewart Mach. Co. v. Davis*, 57 S. Ct. 883.

¹⁰⁹ *People v. Hoogy*, 269 N.W. 605 (Nov., 1936), discussed *supra*, p. 672).

¹¹⁰ *Harrison v. Hartford Steam Boiler Inspection and Ins. Co.*, 187 S.E. 648 (June, 1936), reversed by a 5 to 4 vote in *Hartford, etc., Co. v. Harrison*, 57 S. Ct. 838 (May, 1937).

¹¹¹ *City of Birmingham v. Hood-McPherson Realty Co.*, 172 So. 114 (Jan., 1937).

go, and park his vehicle alongside of his property (within reasonable limitations), without the exaction or payment of a tax or fee to the municipality, or to have his property defaced by superimposed obstructions, barriers, or parking meters placed alongside." Doubtless the decision will be distinguished on the ground that it was based, in part, upon the terms of the deed whereby the land was dedicated as a public street.

Dividing seven to two, the Washington court ruled¹¹³ that those who held licenses to fish with gill-nets during the years 1932 and 1933 cannot be permitted to continue to do this while all others, including those who held licenses only for the year 1934, are excluded. The majority felt that the dates selected were purely arbitrary, while the dissenting judges pointed out: "To uphold this . . . act will not deprive relator of a privilege of which he has heretofore availed himself. On the other hand, the effect of this decision will be to deprive others of a livelihood—a privilege of which they had availed themselves and which they had exercised for years. For, if gill net licenses must be issued to all who apply, it is obvious that, in the interest of conservation, the gill net must go the way of the trap."

Other cases are discussed in section five.

Eminent Domain. Stating that "the law of each age is ultimately what that age thinks should be the law," and that "use of a proposed structure, facility, or service by everybody and anybody is one of the abandoned universal tests of a public use," the New York court¹¹⁴ sustained the condemnation of lands for the construction by a public corporation of apartments to be rented to "persons of low income." The contention that private enterprise "is adequate and alone appropriate" for such an undertaking was dismissed as contrary to obvious facts.

V. FISCAL POWERS

Taxation. New Hampshire is one of the few states still denied the privilege of levying a graduated inheritance tax. In an advisory opinion of last March,¹¹⁴ the court advised the legislature that it is equally unconstitutional to exempt "a fixed and more than nominal amount of the value of all estates from the tax on legacies and successions," since such an exemption would, in effect, convert the tax into a progressive one. The Washington court follows the same rule as to income taxes. Hence it concluded, as a correlative doctrine, that an income tax upon corporations is unconstitutional unless the same tax is also made applicable to individuals.¹¹⁵ "Since the act imposes a property tax," the opinion

¹¹³ *State v. Huse*, 59 P. (2d) 1101 (Aug., 1936).

¹¹⁴ *New York City Housing Authority v. Muller*, 1 N.E. (2d) 153 (March, 1936).

¹¹⁵ *Opinion of the Justices*, 190 A. 801, 808.

¹¹⁶ *Petroleum Navigation Co. v. Henneford*, 55 P. (2d) 1056 (March, 1935).

stated, "it is subject to the uniformity clause of the . . . state constitution."

The New Hampshire court¹¹⁶ also advised the legislature that a sales tax must be levied upon the seller, and not upon the purchaser, since otherwise the burden placed upon the seller of collecting and accounting for the tax "would be in derogation of due process as a confiscatory deprivation of his rights of equality." The Idaho court,¹¹⁷ like the federal Supreme Court,¹¹⁸ was of a contrary opinion.

The state courts continue to sustain chain store taxes,¹¹⁹ except, of course, where the basis of the rates is such as to be unacceptable to the federal Supreme Court. This is really remarkable, in view of the fact that the federal Supreme Court still divides five to four in such cases.

Spending. The New York court's ruling that the government may engage in low-cost housing projects is one of the most significant decisions of recent years. Coming, as it does, from a court which enjoys a position of prestige second only to that of the federal Supreme Court, it should have a decided influence upon the tide of judicial opinion. It was overshadowed, however, by the decisions sustaining the use of public funds to support social insurance programs.

The New Hampshire court has undertaken to classify the granting of an exemption from taxation as a grant of public funds, defensible only when a cash subsidy would be valid.¹²⁰ The reasoning has much to commend it, and it is to be hoped that the doctrine will strike root.

¹¹⁶ Opinion of the Justices, 190 A. 801, 804.

¹¹⁷ *Johnson v. Diefendorf*, 57 P. (2d) 1068, 1071 (May, 1936).

¹¹⁸ *Pierce Oil Corp. v. Hopkins*, 264 U. S. 137 (1924).

¹¹⁹ *State v. Simpson*, 166 So. 227 (Fla., Feb., 1936), followed in *Dunlap Tire and Rubber Co. v. Lee*, 171 So. 331 (Dec., 1936); *Tolerton and Warfield Co. v. Iowa State Board*, 270 N.W. 427 (Ia., Dec., 1936); *Safeway Stores, Inc. v. Vigil*, 57 P. (2d) 287 (N. Mex., April, 1936). In the *Simpson* case, one judge wrote a forceful opinion demanding that the state court reject the reasoning of the federal Supreme Court and hold such taxes void.

¹²⁰ Opinion of the Justices, 190 A. 425, 428-9 (Feb., 1937).

AMERICAN GOVERNMENT AND POLITICS

Congressional Investigations During Franklin D. Roosevelt's First Term. Much has been written on Congressional investigations. The theoretical questions connected with them have been explored. Their place in our governmental system has been reasonably well established.

Recent developments give a new perspective. The high point of Congressional investigations, so far as the previous literature was concerned, came in a time of stagnating major party politics. There was an attitude of "stand by" on the part of the Administration; defeatism pervaded the official minority. Conditions in the Senate, however, permitted the dissident Republicans, in combination with the Democrats, to constitute an intermittent majority for purposes of criticism if not of construction. When malfeasance and misfeasance were allowed to creep into administration, meeting little resistance from within, the check had to come from without, and it came in the form of Congressional investigations.

Because of the position of the investigation in the early twenties as predominantly a check on administration, it may be that this feature has been exaggerated in previous thinking on the subject. Experience under the New Deal—when, for the first time since investigations were well publicized, a strong party majority, presidentially led, was committed to a program of social change—has shown that investigations may serve as valuable aids to an Administration.¹ This salient fact is brought in relief by a classification of all inquiries of the period.

Analysis in Terms of Primary Purpose. One hundred and sixty-five investigations were authorized by, or conducted during, the 73d and 74th Congresses.² This figure includes everything that could logically, even though remotely, be called an investigation—not only those conducted by Congressional standing and select committees in accordance with a Congressional resolution, but also those made by administrative bodies pursuant to authority conferred by an act or a resolution. The term is construed so broadly, in fact, that it includes resolutions requesting administrative bodies to transmit information which they may already have at hand.³

¹ Investigations became an issue in the recent presidential campaign when Governor Landon, in his Los Angeles speech of Oct. 20, 1936, vigorously attacked "a committee that is out to get the critics" as distinguished from "a committee that is out to get the crooks."

² This study covers over three and three-quarter years, beginning March 4, 1933, and running through 1936. It is obviously impossible to cite final results in connection with a score of investigations that remained in progress after the beginning of the 75th Congress.

³ No attempt is made to include investigations that a standing committee may conduct on its own initiative without a Senate or House resolution. An example was the inquiry, voted by the Senate Commerce Committee in June, 1935, of charges of

Investigations may be said to have the following six main purposes: first, to aid the Administration;⁴ second, to check the Administration; third, to obtain information needed where Congress assumes the initiative in legislating; fourth, to exercise "social leverage" through publicity and, closely interwoven with this, to mould public opinion; fifth, to try in connection with impeachment; sixth, to judge the qualifications or behavior of members of Congress. Seldom, of course, is an investigation confined to one of these purposes; there is much overlapping. The following classification is based upon what seemed to be the primary emphasis in each case. Sometimes the dominant motivation was revealed only in the debate in Congress at the time of the adoption of the authorizing resolution.⁵

1. *To Aid the Administration.* A total of 51 investigations may be classed as aids to the Administration. Especially significant during the New Deal period has been the kind of inquiry that facilitates the passage of legislation asked for by the Administration. This may amount to nothing more than a request for the transmission of relevant information which strengthens the Administration's case in favor of a proposed measure.⁶ Sometimes, however, the investigation is a separate inquiry

corruption in the Department of Commerce. The accusations were made by E. Y. Mitchell, who had been ousted by the President as Assistant Secretary of Commerce after refusing to resign. The Department was sustained. See Hearings of the Senate Committee on Commerce (June 19, 20, 21, 1935), 74th Cong., 1st sess., on "Alleged Irregularities in the Department of Commerce;" also Mr. Mitchell's volume, *Kicked In and Kicked Out of the President's Little Cabinet* (Washington, Andrew Jackson Press, 1936).

⁴ The term "Administration" has at least two meanings. It may refer merely to those who execute the laws in a routine way. But it is used here in the political sense to include the President and those who work with him in formulating as well as carrying out general governmental policies. Thus used, it is capitalized in this study.

⁵ So far as classification must be guided by the real effect, this may not be clear until the investigation has been completed and its results put to use. Thus the Byrd resolution to investigate executive agencies of the government with a view to co-ordination and economy (S. Res. 217, 74th Cong., 2d sess., Feb. 24, 1936) at first seemed a "check"; but the President, pointing out that he had been thinking on the subject previous to the resolution, maneuvered skillfully and lost no time in taking over direction. On March 20, he wrote Speaker Byrns, of the House, suggesting that that body create a committee similar to the Senate's to "coöperate with me and the committee that I shall name in making this study . . . to avoid duplication of effort in the task of research." It remains to be seen whether the Brookings Institution reports for the Senate and House committees—the first of which, on the subject of consolidation of credit agencies, appeared on January 14, 1937—will run contrary to the January report by the President's Committee, "Administrative Management in the Government of the United States."

⁶ For example, the House resolution, early in 1933, which asked the Secretary of Agriculture for information and also for recommendations respecting farm mortgages and debts (H. Res. 69, 73d Cong., 1st sess., Mar. 22, 1933).

neatly arranged to reinforce a Presidential recommendation regarding major legislation. Thus the inquiries into lobbying by utilities smoothed the way for the passage of laws restricting holding companies in accordance with Presidential policy.⁷ A particularly clever tactical move was the timing of these lobbying investigations to break at the moment when Congress was considering both the Wheeler-Rayburn bill⁸ to regulate holding companies and the T.V.A. amendments.⁹ On July 1, 1935, the House defeated the so-called "death sentence" clause of the Wheeler-Rayburn bill. The resolution ordering an investigation in the House was passed on July 8; the Senate investigation was ordered three days later. Only seven weeks later, after the House had reversed itself, the President was able to sign the Wheeler-Rayburn bill (containing the "death sentence" in only slightly modified form),¹⁰ and also the T.V.A. amendments which aided the Authority by giving it clarifying and remedial legislation based upon its two years of operation.

Similarly, the investigation into stock exchange practices and later into banking¹¹ (which, although begun before Roosevelt, received strong Administration backing after March, 1933) spectacularly placed in focus before the nation the questionable practices of "money changers" and made easier the task of passing such legislation as the Banking Acts of 1933¹² and 1935,¹³ and the Securities Act of 1933¹⁴ and Securities Exchange Act of 1934.¹⁵ There had been pronounced reaction to the original Securities Act during 1933 and 1934, but the investigation helped the Administration to make the second act an advance rather than a retreat by extending regulation to stock exchanges. Thus an inquiry can be made to serve as a prop for an Administration policy already under way.

⁷ H. Res. 288, 74th Cong., 1st sess., July 8, 1935; and S. Res. 165, 74th Cong., 1st sess., July 11, 1935. The legal difficulties of the committee set up under the latter resolution are dealt with below.

⁸ S. 2796 (Pub. 333-74th Cong.) Aug. 26, 1935.

⁹ H. R. 8632 (Pub. 412-74th Cong.) Aug. 31, 1935.

¹⁰ Two other investigations begun before Roosevelt contributed aid to the passage of this bill: (1) The inquiry by the House Committee on Interstate and Foreign Commerce into the ownership and control of public utility corporations by holding companies (H. Res. 59, 72d Cong., 1st sess., Jan. 19, 1932). See House Report 2192, 72d Cong., 2d sess.; 827, 73d Cong., 2d sess., 6 parts; and 1273, 73d Cong., 2d sess., 3 parts. (2) The Federal Trade Commission's investigation of electric and gas public utility corporations (S. Res. 83, 70th Cong., 1st sess., Feb. 13, 1928). A total of 84 interim reports and seven exhibit volumes—S. Doc. 92, parts 1 to 84 (parts 51 to 84 were issued since March 4, 1933). Part 71B is an index of parts 1 to 20 and exhibit volumes; part 77A of parts 21 to 45; part 84D (in preparation) of parts 46 to 84.

¹¹ S. Res. 84., 72d Cong., 1st. sess., Mar. 4, 1932.

¹² H. R. 5661 (Pub. 66-73d Cong.) June 16, 1933.

¹³ H. R. 7617 (Pub. 305-74th Cong.) August 23, 1935.

¹⁴ H. R. 5480 (Pub. 22-73d Cong.) May 27, 1933.

¹⁵ H. R. 9323 (Pub. 291-73d Cong.) June 6, 1934.

Still another type of collaboration was illustrated by the House and Senate investigations of air mail contracts concluded under the Republican régime.¹⁶ A reflection on another Administration, with the implication that the current management is more honest and efficient, aids the latter.¹⁷

A further phase of coöperation may lie in the assistance that a Congressional investigation can give to an executive body whose activities are closely articulated with Presidential policy. This indirection may be necessary because the investigative powers of administrative bodies are more limited than those of legislative committees.¹⁸ A current example has been the investigation of railroad financing by the Senate Committee on Interstate Commerce.¹⁹ It was said that part of the purpose of the authorizing resolution was to enable the Committee to get information which the Interstate Commerce Commission was unable to obtain.²⁰

Another type of essentially defensive aid may be illustrated by the inquiry into Dr. Townsend and his scheme of old age pensions.²¹ Congressmen of both houses and the Administration were becoming alarmed at the increasing power of the Townsend movement. When logic failed to arrest it, the investigation was resorted to. Although the Doctor was able to assume somewhat the rôle of a martyr, his cause probably lost more prestige and following than it gained as a result of the hearings and prosecution²² that followed his contumacy.²³

In an election year, an investigation may supply handy campaign ammunition to the party in power. Thus the Senate committee investigating lobbying devoted a portion of its public hearings to such organizations as the Crusaders, the Farmers' Independence Council, and the Sentinels of the Republic, revealing that several of these groups, hostile

¹⁶ S. Res. 349, 72d Cong., 2d sess., Feb. 25, 1933, and H. Res. 226, 72d Cong., 1st sess., June 21, 1932.

¹⁷ In this specific instance, however, the repercussions perhaps over-balanced the advantages to the Administration.

¹⁸ Some of the limits are brought out in: "Security Exchange Commission's Power of Search," *George Washington Law Review*, Mar., 1935, Vol. 3, pp. 356-369, by O. S. Colclough; and "Constitutionality of Investigations by the Federal Trade Commission," *Columbia Law Review*, Jan. and Mar., 1928, Vol. 28, pp. 708-733, and 905-937, by Milton Handler.

¹⁹ S. Res. 71, 74th Cong., 1st sess., May 20, 1935.

²⁰ *Congressional Record*, 74th Cong., 1st sess., p. 7818; and 75th Cong., 1st sess., p. 858.

²¹ H. Res. 443, 74th Cong., 2d sess., Mar. 10, 1936.

²² See below.

²³ A defensive inquiry was employed when Superintendent Wirt made his charges of "reds" in the government in 1934. An open investigation of him and some of those whom he accused served emphatically to bring out the disproportion of the charges (H. Res. 317, 73d Cong., 2d sess., Mar. 29, 1934):

to the New Deal, received funds from the same individuals, some of whom were wealthy industrialists and financiers.²⁴

2. *To Check the Administration.* Forty-five of the 165 investigations may be called checks on the Administration. Theory assumes that the legislature has a duty not only of legislating but also of supervising the executive branch—that it should “hold administrative officers to a due accountability for the manner in which they perform their duties.”²⁵ In line with this Congressional task, investigations may check administrative officers and thereby indirectly curb the current political leadership. So pronounced was this aspect of investigations in the preceding decade that observers wondered how far Congress would embarrass any President who chose to be an innovator.

For the period of this study, however, investigations that were intended to embarrass or that seriously censured the Administration have been relatively scarce. In only a few cases have inquiries pointed to inefficiency or impropriety.²⁶ Following the airplane crash in which Senator Cutting was killed, the Senate ordered an investigation into the causes of the wreck;²⁷ the facts brought out in public hearings led the committee to find fault with the Bureau of Air Commerce of the Department of Commerce and to recommend an overhauling of its personnel.²⁸

Congressional requests for information that the Administration has at hand, in an unpublished document or otherwise, may be friendly acts of cohesion;²⁹ but some requests amount to an attack. Sometimes the rumor of dissension on the administrative side of government gives an opening. Critics of the Administration seek to drag out the supposedly suppressed sentences in a report.³⁰

²⁴ The Senate committee on campaign expenditures (S. Res. 225, 74th Cong., 2d sess., Apr. 1, 1936) was able to be of assistance by, among other things, disclosing, on the eve of a speech in Maine by Governor Landon, that American Liberty League backers had contributed to the Republican campaign fund in Maine.

²⁵ W. F. Willoughby, *Principles of Legislative Organization and Administration* (1934), p. 157.

²⁶ Presidential Secretary Louis Howe was under some shadow of suspicion for his part in the purchase of some CCC toilet kits (S. Res. 88, 73d Cong., 1st sess., June 2, 1933), but the investigating committee found no evidence of corruption or improper motive (S. Rp. 144, 73d Cong., 1st sess.).

²⁷ S. Res. 146, 74th Cong., 1st sess., June 7, 1935.

²⁸ Reverberations continued until the resignation on February 28, 1937, of the director of the Bureau, Eugene L. Vidal, which at least indirectly was related to the disclosures.

²⁹ As S. Res. 190, 73d Cong., 2d sess., Feb. 15, 1934, asking the Administrator of Public Works for information concerning the organization, policies, and program of the PWA.

³⁰ Although such action cannot be called common, several illustrations may be cited, including S. Res. 294, 74th Cong., 2d sess., Apr. 30, 1936, and S. Res. 107, 74th Cong., 1st sess., Mar. 16, 1935 (requested Secretary of Interior to submit reports of inquiries into alleged communistic activities at Howard University);

A prime example of the way in which politics may enter into a resolution ordering an inquiry was afforded by S. Res. 265 of the second session of the 74th Congress (April 27, 1936). Senator Vandenberg sponsored a resolution, which tended to embarrass the Administration, requiring the Secretary of Agriculture to submit a list of all who received A.A.A. benefit payments in excess of \$10,000 for a single year. But the Administration retaliated by having its Congressional friends add to the resolution a request for information on tariff benefits to large manufacturing concerns.³¹

Interesting to the observer, both because it was an innovation and because of the possibilities involved in close-range, semi-confidential "checking" was the provision³² for a special committee in the Senate to confer with the Secretary of the Treasury regarding the administration and effect here and abroad of the Silver Purchase Act of 1934.³³

3. *To Aid in Legislating.* An investigation may be held for the purpose of obtaining information to help Congress legislate. This does not necessarily mean that there is a specific legislative intent at the beginning of the investigation. The inquiry may be conducted to determine whether legislation is desirable. As has been seen, a number of investigations have facilitated the passage of legislation in accordance with Administrative wishes. Such inquiries are classified under "aids to the Administration." All other investigations aimed at new legislation—totaling 47—are included under the present heading.

Only a few of these were relatively important, the outstanding being the inquiry by the Senate committee into the manufacture and sale of arms and other war munitions.³⁴ Others were: by the Senate Committee

S. Res. 175, 73d Cong., 2d sess., Feb. 21, 1934 (sought information on past and current connections of employees of the NRA); H. Res. 430, 74th Cong., 2d sess., Mar. 2, 1936 (asked for report of the Bureau of Agricultural Economics relative to cotton reduction which, according to the resolution, had been made public with certain deletions and alterations).

³¹ An unanswered question—perhaps unanswerable due to separation of powers—is how far Congress can go in getting information from an executive. There are a few instances where the requested material apparently never was submitted. Only once was there any record of a definite refusal. The House asked the President for the full text of one of his press conferences (H. Res. 212, 74th Cong., 1st sess.), but he considered this a bad precedent (*Congressional Record*, 74th Cong., 1st sess., p. 7186). No issue was made of it.

³² S. Res. 187, 74th Cong., 1 sess., Aug. 16, 1935.

³³ The committee has as yet made no report.

³⁴ S. Res. 206, 73d Cong., 2d sess., Apr. 12, 1934. Hearings, beginning Sept. 4, 1934 (24 parts). Committee issued nine reports: S. Rp. 400, 74-1, reported progress; S. Rp. 944, pt. 1, 74-1, Naval Shipbuilding; S. Rp. 944, pt. 2, 74-1, study of findings of War Policies Commission; S. Rp. 577, 74-1, recommended H. R. 5529 to prevent war profiteering; S. Rp. 944, pt. 3, 74-2, recommended nationalization of manufacture of war requirements; S. Rp. 944, pt. 4, 74-2, criticized War Department bills S. 1716 and S. 1722 relating to war-time mobilization of industry; S.

on Commerce into safety at sea;³⁵ by the Federal Trade Commission into conditions with respect to the sale and distribution of dairy products in the United States;³⁶ by the Senate Committee on Manufactures into the desirability of establishing a National Economic Council.³⁷ Also included in this category are requests upon the Tariff Commission for foreign and domestic production cost figures on various items.

4. *To Exercise "Social Leverage" Through Publicity.* One of the functions of a legislative body may be to act as a national forum and thereby to become a "teaching apparatus." The Congressional investigation may be the means of achieving this end. It hardly could be said that any resolution was passed with the primary purpose of obtaining social leverage either by moulding public opinion or by scaring through publicity; but these frequently were important elements and were factors in perhaps half of the total investigations.

Representative Sabath's inquiry into real estate bondholders' reorganizations³⁸ was primarily for the purpose of determining the best legislation to pass to prohibit the abuses found, but it was pointed out to the House that it was most important that the public be made aware of the facts, and that the investigation would "throw the fear of God into the hearts of those who are robbing the people." The LaFollette committee's investigation of strike-breaking, industrial espionage, and other infringements of civil liberties fits snugly into this group.³⁹ Likewise, the munitions inquiry paid particular attention to social leverage and made every effort to mould public opinion in accordance with the committee's views.

Another angle of social leverage is the possibility of an investigation arousing public opinion and as a result stimulating activity by state legislatures. Early in 1934, Governor Lehman of New York was laboring for passage of a program of more strict regulation of public utilities. The task began to seem hopeless, especially after the defeat in the state senate of two of the major bills. The Federal Trade Commission, however, gave timely assistance by making available various documents and evidence which it had assembled in its investigation of public utilities.⁴⁰ The final result was virtual adoption in New York of the Lehman program.⁴¹

Rp. 944, pt. 5, 74-2, discussed existing neutrality and embargo laws; S. Rp. 944, pt. 6, 74-2, further discussed the adequacy of existing legislation; S. Rp. 944, pt. 7, 74-2, included a study of government manufacture of munitions.

³⁵ S. Res. 7, 74th Cong., 1st sess., Mar. 16, 1935.

³⁶ H. Con. Res. 32, 73d Cong., 2d sess., June 16, 1934.

³⁷ S. Res. 114, 74th Cong., 1st sess., Aug. 24, 1935.

³⁸ H. Res. 412, 73d Cong., 2d sess., June 15, 1934.

³⁹ S. Res. 266, 74th Cong., 2d sess., June 6, 1936.

⁴⁰ Such assistance, of course, was indirectly "aid to the Administration," since it was aid to a state ally of the Administration.

⁴¹ The key measure strengthened the right of municipalities to own and operate

5. *To Try in Connection with Impeachment.* Two resolutions were passed directing investigations into the official conduct of two judges.⁴²

6. *To Judge the Qualifications or Behavior of Members of Congress.* Two Senate seats were contested during the period under consideration.⁴³ Thirteen House resolutions were passed awarding contested seats,⁴⁴ as well as one resolution declaring that neither of two aspirants to a Louisiana seat had been elected in accordance with state law, and announcing that a vacancy existed.⁴⁵

Statistical Summaries. It is appropriate to review in tabular form the categories that have been examined and then to summarize the mechanics of the investigative process. From the standpoint of major purpose, the investigations from March 4, 1933, to the end of 1936 may be divided thus:

Authorized by	Invs. to check Administration	To aid Administration	To aid in legislating	To try in connection with impeachment	To judge qualifications of members	Totals
Senate	43	23	34		4	104
House	2	18	9	2	16	47
Joint Senate and House		10	4			14
Totals	45	51	47	2	20	165

their own gas and electric plants. *Laws of the State of New York*, 1934, Chap. 281. The other bills in the program were Chaps. 212, 279, 280, 282, 283, 284, 285, 286, 287.

⁴² H. Res. 120, 73d Cong., 1st sess., Apr. 26, 1933, directed an inquiry into alleged misconduct on the part of Judge James A. Lowell of Massachusetts; but his death occurred before this was completed. H. Res. 163, 73d Cong., 1st sess., June 1, 1933, concerned Judge Halsted L. Ritter. The subcommittee investigating pursuant to the resolution voted two to one against recommending impeachment, but the full Judiciary Committee, after voting to drop the charges, reversed itself, with the result that the Judge was impeached by the House. The Senate, on April 17, 1936, found him guilty of high crimes and misdemeanors in office.

⁴³ Those of Senators Cutting and Holt. The committee's report (S. Rp. 793, 74th Cong., 1st sess.) on the former, published after his death, found no evidence which reflected "upon the honor or integrity" of the Senator. S. Rp. 904, 74th Cong., 1st sess., contained both a majority and a minority opinion, the Democrats voting to seat Mr. Holt, the Republicans opposing on the ground that he had not reached the age of thirty when elected.

⁴⁴ Eight Republicans, four Democrats, and one Farmer-Laborite were seated as a result.

⁴⁵ H. Res. 231, 73d Cong., 2d sess., Jan. 29, 1934. See *Congressional Record*, 73d Cong., 2d sess., p. 1510.

On the basis of the means of investigation, the distribution was as follows:

<i>Authorized by</i>	<i>Invs. by select committees</i>	<i>Invs. by standing committees</i>	<i>Invs. by commissions</i>	<i>Requests for information from administrative bodies</i>	<i>Invs. by joint committees</i>	<i>Invs. by Comptroller General</i>	<i>Invs. of qualifications of members by standing election committees</i>	<i>Totals</i>
Senate	13	25	13	49		2	2	104
House	11	17		5			14	47
Joint Senate and House			10 (including 5 by authority of a bill)	1 (by authority of a bill)	3			14
	24	42	23	55	3	2	16	165

The foregoing tables give point to some comment on the relative activity of the two houses of Congress. Professor Dimock⁴⁶ and Professor Rogers,⁴⁷ among others, have shown that the Senate has become the more important investigator, whereas in earlier times the House was the leader in this respect. In bringing about this change, the freedom of debate in the Senate associated with the absence of effective closure afforded a fulcrum for leverage which drew its real power from the overrepresentation of the agrarian sections. These factors operated when the emphasis of investigations was on checking the Administration. It is interesting to note that the Senate's rôle has continued to be predominant in the period since 1933 when the stress has been on collaboration with the Administration. So far as there were checks, however, the action was almost entirely in the Senate.

From the viewpoint of the instrument chosen, two facts are worthy of note. First, the House confined most of its investigating to its own committees, and not once did it, by itself, ask for an inquiry through one of the commissions. Second, in both houses standing committees were preferred to select committees.

Expenditures and Staffing. Complete up-to-date information on the cost of investigations is not available. Furthermore, there obviously are many expenses which never can be determined. A completely accurate picture of the cost to the taxpayer would include such overhead as an apportionment of the members' salaries covering the time spent in hearings. Moreover, commissions conducting an investigation do not always

⁴⁶ Marshall E. Dimock, *Congressional Investigating Committees* (1929), p. 30.

⁴⁷ Lindsay Rogers, *The American Senate* (1926), p. 202.

receive a special appropriation for it. Even a Congressional standing committee sometimes is asked to make a minor investigation without any special appropriation being granted, the committee taking its expenses from its regular funds. And administrative bodies frequently lend time and individuals for the aid of investigating committees.⁴⁸

With reference to the inquiries during the period in question, a fair idea of their aggregate cost can be gained by totaling the individual appropriations. True, an appropriation need not be spent in full; it is a maximum, and on a few occasions a report was made that the entire amount had not been used. Nevertheless, in the light of the fact that the majority of investigations required additional allotments and that in the past the unused portions of appropriations have not been large, it seems safe to assume (even if the loan of administrative personnel is disregarded) that a figure based on the total of the appropriations made does not greatly exaggerate the actual expenditures.⁴⁹

The grand total for the two Congresses, with deductions made for portions known not to have been used, was \$3,080,234, divided as follows:

For commissions		
Communications Comm. (A. T. & T.).....	\$1,150,000	
Railroad Investigating Comm.....	63,000	
Federal Trade Comm. (Agricultural income).....	150,000	
(Milk: includes \$60,000 from own funds).....	90,000	
(Public utilities).....	230,000	
Aviation Comm.....	75,000	\$1,758,000
For Secretary of Agriculture for investigating traffic conditions.....		
		75,000
For joint committees.....		10,000
For Senate standing and select committees.....		876,479
For House standing and select committees.....		369,755

It is interesting but hardly surprising that, considering committees only, the Senate outlay was well over twice that of the House.

It is aside from the point to enter into a justification of these expenditures. Suffice it to say that, looked at merely from a dollars and cents angle, the balance-sheet of investigations would probably show a profit. For example, the committee that inquired into bondholders' committees pointed out in a preliminary report that it had turned over to the Bureau of Internal Revenue information to enable it to collect at least \$1,000,000

⁴⁸ This phase of investigations has become so important that it is dealt with below.

⁴⁹ For investigations authorized before but continuing into the Roosevelt term, only appropriations made during the 73d and 74th Congresses are included. Two or three unavoidable exceptions have an insignificant effect on the figures.

in taxes; while Senator Fletcher's committee investigating stock exchanges and banking stated in its final report that "to date, assessments for deficiencies and penalties have been levied by the Bureau of Internal Revenue in a sum exceeding \$2,000,000 as a direct result of the revelations before the subcommittee." Thus, these two claims added together would just about cover the direct outlay in behalf of all investigations conducted during the period of nearly four years with which the present study is concerned.

Experience had indicated that the relative success or failure of an investigation may be determined by the care taken in preparation. Extemporaneous cross-examination in the hearings does not suffice—a considerable amount of "spade-work" usually is necessary. In this connection, it has sometimes seemed desirable for a committee to borrow executive personnel trained in the particular subject; in fact, the Congressional resolution of authorization occasionally has directed it. The practice is not new, but the collaborative spirit marked in investigations since 1933 invited extended steps along these lines. The outstanding example was furnished by the Wheeler committee investigating railroad financing, which not only received substantial help from the Interstate Commerce Commission in accordance with the intent of the resolution, but also borrowed personnel from agencies administering relief.⁵⁰ Growing rumblings of discontent with a procedure which thus gave Congress limited knowledge of, or control over, expenses of its committees brought a counter-attack in the form of a provision inserted by the House Appropriations Committee in the First Deficiency Appropriation Bill of the 75th Congress⁵¹ (which contained a large allotment for relief) that no part of the funds should be used "to pay the compensation of any person, not taken from relief rolls, detailed or loaned for service in connection with any investigation or inquiry undertaken by any committee of either house of Congress under special resolution thereof." The House approved, but the Senate, after hearing charges that the clause was partly the result of propaganda on the part of those being investigated, offered a substitute merely requiring a full report each month by executive agencies on the number of employees working for committees. The issue was postponed when the bill finally was passed containing the House proviso, but with the condition that it should not take effect until 30 days after enactment.⁵²

⁵⁰ The LaFollette committee investigating infringements of civil liberties also was an important borrower. In January, 26 employees who were being paid from relief funds, with annual salaries totaling \$61,420, were loaned to Congressional investigating committees (see *Congressional Record*, 75th Cong., 1st sess., p. 562).

⁵¹ H. R. 3587 (Pub. 4-75th Cong.) Feb. 9, 1937.

⁵² The Independent Offices Appropriation Bill (H. R. 4064) went to conference on Feb. 17, when the Senate eliminated a similar House stipulation that none of

The student of government cannot help wondering whether this dependence of Congressional committees on executive personnel may not be a significant sign pointing to the desirability of conducting investigations through administrative agencies. But substantial movement in this direction must wait a liberalization of the law and doctrines under which these agencies can proceed.

Legal Developments. The law on investigations was not greatly changed by court decisions from 1933 to 1936. Of the four instances in which the courts were given an opportunity to discuss the questions raised, three were concerned with procurement by Congressional committees of papers and correspondence, and the fourth with the failure of an individual to appear at a hearing in compliance with a committee summons.⁵³

A slight broadening of the power of Congress to punish for contempt of a committee was won through the decision in the one case which went to the Supreme Court of the United States, i.e., *Jurney v. MacCracken*.⁵⁴ The chief issue was over the contention of the defendant, William P. MacCracken, Jr., that "the power to punish for contempt . . . may be used by the legislative body merely as a means of removing an existing obstruction to the performance of its duties," and that this power ceases as soon as the obstruction is removed or its removal becomes impossible. Hence, MacCracken maintained, the Senate had no power to punish a witness who destroyed papers after the service of a subpoena. He insisted that Congress was without power itself to impose punishment for a past act which it regarded as contemptuous; and that for such offenses punishment must be inflicted by the courts.

MacCracken,⁵⁵ a Washington lawyer, had been served with a subpoena *duces tecum* on January 31, 1934, requesting him to appear before the Senate committee investigating air mail contracts and to bring with him, from his files, correspondence between him and his aviation company clients. He at once wired his clients asking if they wished to authorize him to make the documents available to the Senate committee. Affirmative answers were received from all, but two replies did not immediately come in. Before the Western Air Express, Inc., answer was received, a Mr. Givvin of that company, on orders from his superior officer, Mr. Hanshue, went to MacCracken's office and, with the consent of the latter, took away certain letters (all allegedly, but not actually, personal) from the files. Similarly, Mr. Brittin, of Northwest Airways,

the funds should be made available for expenses in connection with Congressional investigations.

⁵³ Not all questions of contumacy result in actual litigation. It occasionally happens that a committee encounters opposition which it does not combat.

⁵⁴ 294 U. S. 125 (1935).

⁵⁵ A convenient reference for the happenings surrounding the MacCracken incident is S. Doc. 51, 74th Cong., 1st sess., "William P. MacCracken, Jr., et al."

by permission not of MacCracken but of MacCracken's partner, went through his company's files in the law office and removed some letters. The correspondence which Givvin had taken was, however, delivered to the committee on February 3. "Most" of Brittin's letters also came into the hands of the committee through the aid of investigators of the Post Office Department, who searched through waste and managed to paste torn bits together in their original forms. Brought before the bar of the Senate to show cause why they should not be punished for contempt, Givvin and Hanshue were found not guilty. Brittin, however, was adjudged guilty and sentenced to ten days in jail. MacCracken also was found in contempt, but was released on a \$5,000 bond pending appeal. A petition for writ of habeas corpus was dismissed by the Supreme Court of the District of Columbia, but the Court of Appeals reversed the judgment.⁵⁶ The case then went to the United States Supreme Court, which held that "the power of a house of Congress to punish a private citizen who obstructs the performance of its legislative duties is not limited to the removal of an existing obstruction, but continues after the obstruction has ceased or its removal has become impossible," and added that where a proceeding for contempt is within the jurisdiction of a house of Congress, questions whether the person arrested is guilty or has so far purged himself that he does not deserve punishment are questions for the house to decide, and which cannot be inquired into by a court by a writ of habeas corpus.

The second legal question concerned the perennial issue of search and seizure.⁵⁷ Developments in this regard during the period have not been conclusive. Two separate injunction suits were brought to restrain the exercise of Senate lobby committee subpoenas, one of which suits also sought to enjoin the Federal Communications Commission from procuring copies of telegrams for the committee.

Early in 1936, the committee issued a subpoena asking from the Western Union Company copies of all telegrams sent or received by the Chicago law firm of Winston, Strawn, and Shaw between February 1 and December 1, 1935. Chief Justice Wheat of the District of Columbia Supreme Court signed a permanent injunction enjoining the committee from seizing or making use of the firm's telegrams, holding that the subpoena was illegal, being "obviously a mere fishing expedition of the kind that has been condemned so many times."⁵⁸

Not long afterward, the same Justice Wheat handed down a decision⁵⁹

⁵⁶ 72F (2d) 560.

⁵⁷ Dimock has written: "The arbitrary power of committees to demand the production of papers, once the power has been granted by the House, has been the chief subject of denunciation by witnesses throughout the history of investigations" (*op. cit.*, p. 154).

⁵⁸ *New York Times*, Mar. 12, 1936.

⁵⁹ *Ibid.*, Apr. 9, 1936.

on an injunction suit of William Randolph Hearst. Once again the point at issue was the extent to which a branch of Congress or its agency may go in search and seizure. Failing to throw much light on these puzzling questions, the Justice denied the application for an injunction to restrain the committee from making use of a telegram, specifically subpoenaed from the files of the Western Union, which had passed between Hearst and an editorial employee. This phase of the case touched on press freedom as guaranteed in the First Amendment. Speaking extemporaneously, Justice Wheat said: "You cannot say that the proprietor of a newspaper is not amenable to ordinary judicial process or that his communications with his subordinates are sacred. I do not think any question of the freedom of the press is involved." But he also argued—and here he seemed partially to reverse himself on his previous *Strawn* decision—that the court was without jurisdiction as to the Senate committee, and that he did not know of "any case in which any court has assumed to dictate to a committee of the Senate what it should do and what it should not do;" although he himself had recently dictated to a committee that it could not issue a blanket subpoena. One can readily agree with Judge Wheat's statement later in the decision that it is hard to tell "exactly how that leaves us." His opinion was sustained by the Court of Appeals on November 9 in a decision⁶⁰ which held that it was powerless to act against the legislative body, even though the seizure of telegrams might have been illegal, and maintained that it was not within its jurisdiction to interfere with a legislative body performing a legislative function. Based on this reasoning, it would appear that a court could not declare unconstitutional an act of a Congressional committee.

Mr. Hearst also at the same time sought to enjoin the Federal Communications Commission from "unlawfully" searching the files of telegraph companies. His action was an attempt to dissolve a novel administrative relationship which exemplified the collaborative spirit of the times. The Commission allegedly had combed these files and made copies of telegrams which the committee wanted.⁶¹ Chief Justice Wheat was convinced that he had jurisdiction over the Commission and "a perfect right" to enjoin it from proceeding unlawfully. The immediate issue was not faced, however, since the Commission had informed the court that its investigation was completed and that it had no copies of Hearst telegrams in its possession. The application for a preliminary injunction was therefore denied "without prejudice to its renewal upon any evidence

⁶⁰ U. S. Ct. Appls. D.C., *Hearst v. Black et al.*, No. 6808.

⁶¹ The Senate, spurred by Senator Borah (who claimed he was not acting in the spirit of censure), passed a resolution (S. Res. 245, 74th Cong., 2d sess., Mar. 9, 1936) asking the Communications Commission for a report on its activities in this connection and for information on the authority under which it took action. The reply (S. Doc. 188, 74th Cong., 2d sess.) urged the Commission's interest, due to alleged forging of telegrams and to burning of file copies.

of further activities along the lines attacked here." This part of the decision was likewise upheld by the Court of Appeals.⁶²

The final court action concerned the contumacy of Dr. Francis Townsend. Brought before a House committee to testify regarding his Old Age Revolving Pensions, Ltd., he strode out of the hearings on the third day and refused to return. The House, on May 28, approved the turning over of the case to the federal attorney for the District of Columbia. Townsend and two aides were not indicted by a federal grand jury until December 3, one month after the Presidential election. On February 25, 1937, a District court jury found him guilty of failing to comply with a House committee summons, this being based on his absence during the later hearings.⁶³ His two associates previously had entered pleas of guilty and had been fined.

A further aspect of the legal developments, which indirectly reflected the foregoing episode, was the enactment, shortly before the close of the 74th Congress, of a statute to facilitate procedure against contumacy. The new provision⁶⁴ permits the Vice-President or the Speaker of the House, as the case may be, to certify charges of contumacy to the appropriate federal attorney when Congress is not in session. Previously it was necessary for the Senate or House to be in session before a committee could start criminal proceedings against a recalcitrant witness. The law was used for the first time by the subcommittee of the Senate Committee on Education and Labor investigating violations of civil liberties, when on August 24 it moved for indictment of six witnesses who failed to appear in response to subpoenas.⁶⁵

M. NELSON McGEARY.

Columbia University.

⁶² When Mr. Hearst decided to appeal his case, the Senate committee asked through a joint resolution (S. J. Res. 234, 74th Cong., 2d sess.) for \$10,000 for counsel hire (since the maximum which it could pay was \$3,600 per year) to defend its position, but the House turned it down by a vote of 153 to 137. This slap at the committee supposedly was substantially prompted by the fact that it had at one time smeared several House members with suspicion of receiving favor from a lobbyist, and that it had conflicted with the House committee in 1935 over obtaining testimony from H. C. Hopson of the Associated Gas and Electric Co. (The Senate committee, in S. Rp. 1272, 74th Cong., 1st sess., dated Aug. 14, 1935, had gone so far as to recommend that Hopson be brought before the bar of the Senate to show cause why he should not be punished for contempt in refusing to testify. The matter was dropped when Mr. Hopson appeared before the committee the next day.) Also, several Democratic representatives resented the attempt to drag their party into the Senate committee controversy.

⁶³ Later sentenced to pay \$100 fine and serve 30 days in jail, he was released on bond pending appeal.

⁶⁴ H. R. 8875 (Pub. 849-74th Cong.), July 13, 1936.

⁶⁵ The six, officials of the Railway Audit and Inspection Company, Inc., were on September 21 indicted by a district grand jury. No court action had been taken by the end of February.

The "Merit System" Again. Of the various proposals embodied in the recently published *Report of the President's Committee on Administrative Management*,¹ that calling for extension of the merit system has received most publicity. This publicity has been generally favorable, and, in the opinion of the present writer, undiscriminating. Everyone agrees that appointments to the public service should be based upon merit of some kind. The pertinent questions are: First, should the sort of merit represented by party service be given any consideration in the public service? Second, assuming that it should not, how is the sort of merit connoted by efficiency in doing the particular job assigned to be secured? Any proposal to extend the merit system which fails to tackle these questions unequivocally is hardly entitled to unqualified support.

The President's Committee passes over the first question entirely. Patronage is dogmatically treated as an unmitigated evil which is not to be trafficked with. Perhaps it is, but one is certainly entitled to ask whether party government, as it has developed in this country, could survive without it. Organization, rather than common principles and policies, is the recognized touchstone of party solidarity today.² It would therefore seem incumbent upon advocates of the merit system either to explain how political appointments are to be reconciled with the system or to propose a different basis for parties.³

This problem, however, may be put to one side for purposes of the present note. The Committee can hardly be censured for failing to raise the issue in a political document. The most distressing ambiguity in current advocacy of the merit system occurs in connection with the second question mentioned above. This is because there are two radically different ideas as to how efficiency in government is to be secured. One of them places reliance upon legal rules limiting the freedom of administrators in the choice of personnel. The other places faith in strengthening the executive department, on the theory that the conferment of power commensurate with responsibility will call forth its own efficiency response. The significant point to bear in mind here is that these are really mutually exclusive alternatives. It is fatal to the success of either to inject elements proper to the other.

For example, if reliance upon executive responsibility for administration is to be the method followed, a merit system, with all its paraphernalia of centrally concocted tests, must not be allowed to interfere with the complete discretion of administrators in their use of it. In other words,

¹ Washington, Government Printing Office, 1937.

² Professor Merriam, among others, has emphasized this aspect of American parties *American Party System*, rev. ed., New York, 1929), pp. 101-105.

³ Professor Dimock raises the question, but does not answer it in terms of the American party system. *Modern Politics and Administration* (New York, 1937), p. 297.

there should be no control over an administrator other than that exerted by his own official superiors. His job must stand hostage for his conduct in choosing subordinates, in the same way, and to the same extent, as his conduct in carrying out any other aspect of his official duties.

It is perfectly clear that the original establishment of the merit system in the federal administration did not observe these conditions. It represented an application of the first theory of civil service as outlined above, rather than the second. By the law of 1883,⁴ a Civil Service Commission was set up to act as a non-partisan check upon the freedom of administrators in hiring and firing personnel. In other words, it was assumed that the executive branch was inherently disposed to make "political" appointments, and that the only way to prevent this was to set up a check upon the executive in the shape of an independent civil service administration.

Since 1883, however, a strong movement in favor of strengthening the administrative position of the President has developed. Administrative reorganization now means the integration in the executive of control over all the activities of government. It is therefore obvious that the advocates of administrative reorganization must revise their attitude toward civil service reform. And it would appear reasonable to expect them to repudiate the older idea entirely. Unfortunately, this is not usually done. Instead, an attempt is made to combine the old with the new in order to present an ostensibly unified Civil Service Reform front.⁵

This is substantially the position of the President's Committee. Throughout the report, its members are staunch advocates of presidential power, but they are not above making eloquent appeals to traditional check and balance sentiment in order to get it.⁶ Perhaps the resulting confusion of thought produces a salutary atmosphere for favorable Congressional consideration, and, if it went no farther than this, the Committee ought to be congratulated upon achieving a degree of political finesse rare among academicians. But the distinguished consultants seem to have been seduced by their own rhetoric into making serious substantive concessions to the opposition.

Thus, while they propose an establishment, directly under the control of the President, headed by a Civil Service Administrator, as a substitute for the existing Civil Service Commission, they also provide for a Civil

⁴ 22 Stat. 403; U.S.C. Compact Ed., Title 5, sec. 632.

⁵ The Committee is well aware of the different connotations of "merit system." It even emphasizes that "the original theory of merely protecting appointments from political influence through a legalistic system of civil service administration is inadequate to serve democratic government under modern conditions." *Op. cit.*, p. 7. Apparently, however, "inadequacy" is not inconsistent with application.

⁶ *Vide* the solemn references to separation-of-powers doctrine calculated to induce Congress to abolish the pre-audit powers of its own agent, the Comptroller-General.

Service Board whose members are to enjoy a tenure hedged about with all the familiar devices to secure freedom from executive influence. Not finding anything in particular for this Board to do except advise and recommend, they propose that it should appoint a special board of qualified examiners to *conduct an open competitive examination for the office of Civil Service Administrator. And the President is to be required to choose from the three highest names submitted to him!* In other words, the President is to be legally limited in his choice of this key man who was supposed to be completely subject to his control.

Stranger still, the President's Committee seems to take positive pride in these dubious results as a sort of supreme evidence of its good faith in advocating the merit system. It has a principle to fall back on: The merit system ought (as the text-books have been telling us these many years) to cover all non-policy-forming jobs; the job of the Civil Service Administrator is supposed to be non-policy-forming; ergo, we must see that he is duly tested and certified, let the chips fall where they may.

This type of defense for depriving the Chief Executive of complete freedom of choice in selecting his assistants raises the whole question of the validity of the old saw of the text-books. Certainly there is a good deal of *naïveté* in it; and this is beautifully illustrated in the Committee's explanation of its recommendation. We are told that the President should not be hampered by civil service laws in his selection of policy-forming subordinates, because "in a democracy it is essential that the very highest posts be filled by the Chief Executive with persons who support his program and policies and in whom he has complete confidence."

By implication, lower positions may be filled with persons who do *not* support his program, and in whom he has *not* entire confidence. When stated so baldly, it is clear that this is a false antithesis. Confidence is relative to the job to be performed. The fact that political convictions are irrelevant to the performance of most government jobs means only that they are a factor which a good administrator will naturally disregard in making such selections. In exactly the same way, a good administrator *will* pay attention to political convictions when appointing to the higher posts. It is equally important that confidence of the superior in the inferior shall exist in both cases, and there is no more reason to doubt the competence of the administrator to apply appropriate criteria in the one case than in the other.

The fallacy involved in smug references to policy-making versus policy-executing functions lies in the fact that these are not occupational indices; they are relational qualities. Even the President himself does not make policies *vis à vis* Congress, nor do any of his inferiors make policies *vis à vis* him. On the other hand, all presidential appointees (including, of course, the Administrator of Civil Service) make policies in relation to their own subordinates.

The conclusion to be drawn from this simple fact is that whatever conditions are to govern the relationship between superior and inferior in the government service should be applied wherever that relationship exists. If we are sincere in our belief that responsibility should be concentrated at the top, then it follows that not only the President's selection of a Civil Service Administrator, but also the selection of every other administrator, should be made free of any compulsion by law.

This means that wherever an administrator, whatever his rank in the administrative hierarchy, fails to observe relevant criteria in selecting personnel, the removing power, and not the courts, should be brought into play. Under no circumstances should it be possible for an officer, charged with selecting personnel, to plead that the latter were forced upon him by some outside agency.

The usefulness of a "merit system" to an integrated administration thus depends upon its being definitely regarded as a service agency placing its resources at the disposal of those who have appointments to make. That this service agency should have the right to compel choice from "the three highest" on a list of successful candidates, or that it should serve as a court of appeal for discharged employees, are propositions which should not be countenanced.

There is reason to suspect that these conclusions will sound hopelessly fantastic to the loyal supporter of civil service reform. Yet there is much in recent experience to confirm them. The New Deal has been roundly condemned for failing to expose its alphabetical innovations to merit laws. Yet the example of the T. V. A. offers a very cogent warning that the indictment is not properly drawn. The New Deal is certainly to be condemned for allowing politics to influence the selection of personnel in many cases, but there is no reason to say that the proper alternative is the classified civil service.

The T. V. A. seems to have made an enviable personnel record, not, indeed, without the benefit of civil service techniques, but without being constrained to accept dictation from an independent civil service authority in the matter of job-filling.⁷ In short, the use made of civil service techniques by the T. V. A. is the sort that should be made of them by every agency of government, high or low. If such liberty is abused, there is only one safe remedy, namely, to inculcate in the chief executive a sufficient sense of responsibility to ensure that he will hesitate to turn over any branch of government to machine politicians.

KENNETH C. COLE.

University of Washington.

⁷ The annual reports of the Authority for 1934 and 1936 detail the collaboration of the research division of the Civil Service Commission. See also L. J. O'Rourke, "Personnel Aspects of the T. V. A.," *Personnel*, Vol. 10, No. 4, p. 107; E. Francis Brown, "Men of T. V. A.," *Commonwealth*, Vol. 20, No. 18, p. 419.

Organization of the Executive Branch of the National Government of the United States: Changes between August 1, 1936, and May 31, 1937.¹ As in previous lists, mention is here made only of units specifically authorized by law or established by the President by executive order under general authority vested in him.

Advisory Committee of the Coast Guard Academy. Created by Public No. 38, 75th Congress, approved April 16, 1937, to examine the course of instruction and to advise the Secretary of the Treasury in regard thereto. Committee will consist of five "persons of distinction in the field of education," who shall be appointed by the Secretary of the Treasury and who shall serve without pay, but who shall be reimbursed for actual expenses of travel.

Board of Visitors to the Coast Guard. Created by Public No. 38, 75th Congress, approved April 16, 1937, to "visit the Coast Guard Academy annually on a date to be fixed by the Secretary of the Treasury." The Board will consist of two senators and three members of the House of Representatives to be appointed by the chairmen of the committees of the Senate and the House of Representatives handling legislation pertaining to the Coast Guard Academy. The chairmen of the two committees are to be ex-officio members. The members of the Board receive no compensation, but are to be reimbursed for actual expenses.

Capitol Auditorium Commission. Created by Public No. 6, 75th Congress, approved February 20, 1937, to investigate desirable sites for an auditorium in the city of Washington. Consists of the chairman and the ranking member of the House and Senate committees on public buildings and grounds and the Secretary of the Interior.

Disaster Loan Corporation. Created by Public No. 5, approved February 11, 1937, to make loans because of floods or other catastrophes in 1937. Has a capital stock of \$20,000,000, to be furnished by the Reconstruction Finance Corporation, which will appoint its officers and agent.

Interdepartmental Committee to Coördinate Health and Welfare Activities. Formally created by Executive Order No. 7481 of October 27, 1936, to sponsor coöperative working agreements among agencies of the government in the health and welfare field and to study and make recommendations concerning specific aspects of the health and welfare activities of the

¹ In the December, 1933, issue of this REVIEW, pp. 942-955, appeared a tabular review of the changes in major units of the national government between March 4 and November 1, 1933. Supplementary lists have appeared in the following issues: April, 1934: changes between November 1, 1933, and March 15, 1934; October, 1934: changes between March 15 and June 30, 1934; February, 1935: changes between June 30 and December 15, 1934; August, 1935: changes between December 15, 1934, and July 5, 1935; October, 1935: changes between July 5 and August 12, 1935; December, 1935: changes between August 12 and October 15, 1935; June, 1936: changes between October 15, 1935, and April 15, 1936; October, 1936: changes between April 16 and July 31, 1936.

government. The Committee consists of assistant secretaries of the Treasury, Agriculture, Interior, and Labor Departments, and a member of the Social Security Board. This Committee was established informally in August, 1935, the only announcement being a White House press release.

Joint Committee on Government Organization. Created by Public Resolution No. 4, 75th Congress, approved February 3, 1937. Composed of nine members of the House appointed by the Speaker and nine members of the Senate appointed by the President of the Senate. It is the duty of the Joint Committee to investigate the organization and activities of all agencies of the government and to recommend to the Senate and House of Representatives changes in organization, elimination of agencies, or reduction in personnel. The Joint Committee has held hearings. The testimony has not been published, but it is likely that it will be printed later.

House Resolution No. 60, 75th Congress, adopted January 14, 1936, as amended by House Resolution No. 106 of February 2, created a House Select Committee on Government Organization consisting of nine members. Representative James P. Buchanan was chairman of this committee until his death, when he was succeeded by Representative John J. Cochran. Senate Resolution No. 69, adopted January 29, created a Senate Select Committee on Government Organization, consisting of nine members of which Senator Robinson was chairman. The members of the Senate and House Select Committees are also members of the Joint Committee, but the three committees are separate entities.

Three other committees have been authorized recently for study of problems of reorganization. Senate Resolution No. 217, 74th Congress, adopted February 24, 1936, provided for the appointment of a Senate committee, which is known as the Select Committee to Investigate Executive Agencies of the Government, and of which Senator Byrd is chairman. This committee engaged the Brookings Institution to make a factual study and submit recommendations. House Resolution No. 460, 74th Congress, adopted April 29, 1936, at the suggestion of the President, provided for the creation of a Select Committee on Reorganization, of which Representative Buchanan was chairman. This committee arranged to utilize the work of the Brookings Institution, but as the committee expired at the end of December, at the close of the statutory period of the 74th Congress, it was not able to make use of the Institution's findings.

On March 16, 1936, the President created (without the issuance of an executive order) the "President's Committee on Administrative Management," which operated independently of the other committees. On January 12, 1937, the President transmitted to Congress the report of the

committee, which dealt in general with the consolidation of independent establishments and other existing agencies in 12 executive departments, but did not allocate the subordinate agencies to the several departments.

The report of the President's Committee on Administrative Management has been issued in the three following forms:

(1) A quarto print (ix, 53 pp.), including the President's message, issued by the Committee under the title *Administrative Management in the Government of the United States*. (2) A quarto print (v, 47 pp.) with the same title as above, but not including the President's message, issued by the Committee; the message was printed in the *Congressional Record* for January 12. (3) An octavo print (84 pp.) issued as Senate Document 8, 75th Congress, 1st session, containing both the message and the report; this may be obtained from the Superintendent of Documents for 10 cents.

Reports by the Brookings Institution to the Senate Select Committee to Investigate Executive Agencies (Byrd Committee) have been issued as "committee prints" and may be obtained from the Superintendent of Documents, Government Printing Office, at the prices given below. These have the main title *Investigation of Executive Agencies of the Government*. Subtitles are as follows:

- No. 1. Report on Government Financial Agencies [preliminary print]. 36 pp. 5 cents. (Out of print.) This contains a description of the agencies and recommendations concerning credit-granting agencies. It does not contain recommendations on bank supervisory agencies. A complete (starred) print will be issued.
- No. 2. Expansion in Governmental Activity. 19 pp. 5 cents.
- No. 3. Report on Government Activities in the Field of Public Supply and Property [including mapping and duplicating of publications]. 32 pp. 5 cents.
- No. 4. Report on Government Activities in the Field of Mineral Resources and Power. Pp. 101-135. 5 cents.
- No. 5. Financial Administration of the Federal Government. 110 pp. 15 cents.
- No. 9. Report on Government Activities in the Promotion of Commerce and Industry. 42 pp. 10 cents.
- No. 10. Report on Government Activities in the Regulation of Private Business Enterprises. 107 pp. 10 cents.
- No. 15. Government Activities in Library, Information [including publicity, motion pictures, and radio], and Statistical Services. 31 pp. 10 cents.

Reports, which probably may be obtained from the Superintendent of Documents, are being prepared on the following subjects: organization of federal law enforcement activities; government activities in the fields of the public domain, agriculture, and wild life and aquatic resources;

government activities in the field of transportation; government activities in the field of public welfare; government activities in the field of public works and water resources; and government activities in the field of public personnel.

The report (5 pp.) of the House Select Committee on Reorganization, created April 29, 1936, by House Resolution No. 460, 74th Congress, was issued as House Report No. 4, 75th Congress, 1st session, under the title *Reorganization of Government Departments*.

National Gallery of Art. Created as a bureau of the Smithsonian Institution by Public Resolution No. 14, 75th Congress, approved March 24, 1937, to administer the building and art collection donated to the government by A. W. Mellon. The Gallery will be under the direction of a board consisting of the Chief Justice of the United States, the Secretary of State, the Secretary of the Treasury, the Secretary of the Smithsonian Institution, and five general trustees. The general trustees first appointed are to be chosen by the board of regents of the Smithsonian Institution, subject to the approval of the donor; their terms will expire on July 1 of every alternate year from 1939 to 1947; their successors will be appointed for terms of 10 years by a majority vote of the general trustees. The name of the existing National Gallery of Art of the Smithsonian Institution is changed to the National Collection of Fine Arts; this unit and the Freer Gallery of Art will be continued as heretofore, and will not be a part of the National Gallery of Art.

Resettlement Administration. Recreational demonstration projects transferred to the Secretary of the Interior by Executive Order No. 7496 of November 14, 1936; the direct administration is in the National Park Service. Remaining work of Resettlement Administration transferred to the Department of Agriculture by Executive Order No. 7530 of December 31, 1936; the agency has been continued under the same name as a branch of the Department of Agriculture. By Executive Order No. 7546 of February 1, 1937, six Indian subsistence homestead projects were transferred to the Department of the Interior, where they have been placed under the Office of Indian Affairs.

United States Greater Texas and Pan American Exposition Commission. Created by Public Resolution No. 21, 75th Congress, approved April 9, 1937, to supervise the activities of the United States in connection with an exposition to be held in 1937. The Commission consists of the Vice-President and the Secretaries of State, Agriculture, and Commerce. The resolution provides also for a Commissioner-General, to be appointed by the President by and with the advice and consent of the Senate; he is to serve without compensation, and to him the powers and duties of the Commission may be delegated.

L. F. SCHMECKEBIER.

The Brookings Institution.

FOREIGN GOVERNMENTS AND POLITICS

The Summer Schools and Other Educational Activities of the British Liberal Party.* The summer school was first adapted for political purposes in Great Britain by the Fabian Society early in the present century.¹ In the period before the World War, the only other political organization that sponsored summer schools—and in this case only intermittently—was the Independent Labor party. The Liberal party, beginning with the establishment of the Liberal Summer School in 1921, was the first major party to take up the idea. Neither the Fabian nor the Liberal summer school was founded as part of the official organization of the respective parent bodies; both, in their inception, were spontaneous movements initiated by enthusiastic members of the rank and file. The Fabian Summer School, however, soon became an integral part of the organization of the Fabian Society, while the Liberal Summer School has remained throughout its existence an auxiliary party organization.

The Liberal Summer School was originated as part of the post-war movement designed to rehabilitate the British Liberal party after its eclipse during the war years. The apparent failure of the many attempts to restore the Liberal party to its former prominent position in British politics should not be allowed to divert attention from the Liberal Summer School as an agency for education and research within a major party. It is impossible here to enter at length upon the causes of the decline of liberalism in the world at large, and especially in Great Britain.² It is necessary only to note that many British Liberals sincerely believed, in the years immediately following the World War, that a first essential for the recovery of their party was a general reconsideration and recasting of Liberal policy, in the light of fundamentally changed conditions.³ It was felt that the main outlines of the traditional Liberal policy had already been realized, especially with the enactment of the social program

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¹ See Joseph R. Starr, "The Summer Schools and Other Educational Activities of British Socialist Groups," in this *Review*, Vol. 30, pp. 956-974 (October, 1936).

² See H. J. Laski, *The State in Theory and Practice* (New York, Viking Press, 1935).

³ See the expression of this opinion by two leaders of the summer school movement, as follows: E. D. Simon, "The Liberal Summer School," *Contemporary Review*, Vol. 130, pp. 298-303 (September, 1926), and Vol. 136, pp. 273-279 (September, 1929); Ramsay Muir, "The Latest Liberal Split," *London Nation*, Vol. 40, p. 534 (January 29, 1927), and "The Liberal Summer School and the Problems of Industry," *Contemporary Review*, Vol. 132, pp. 282-289 (September, 1927). See also Hilton Young, "The Disorganization of Liberalism," *ibid.*, Vol. 119, pp. 442-450 (April, 1921); A. G. G., "The Spirit of Liberalism," *London Nation*, Vol. 33, p. 513 (July 21, 1923).

of the pre-war Liberal cabinet, the statutory limitation of the powers of the House of Lords, the consummation of political democracy in the Representation of the People Act of 1918, the disestablishment of the church in Wales, and the initiation of a hopeful plan for international peace.⁴ On the other hand, there was imperative need for the formulation of Liberal policy upon the new and pressing social and economic problems of the post-war era, especially those connected with the industrial life of the nation. A few Liberals who diagnosed the situation in this way were responsible for the foundation of the Liberal Summer School. They perceived that a summer school could be made to serve as a useful agency for reformulating Liberal policy.

It was fitting that the summer school, like another great Liberal movement of the last century, should originate in Manchester. In 1919, a small group of Manchester business and professional men, of whom the leading spirit was E. D. Simon, a manufacturer, became interested in formulating a Liberal policy with reference to the problems of industry. In their many discussions, the members of this group formulated some tentative proposals which were offered as resolutions in the early post-war conferences of the National Liberal Federation, but which were not accepted. After further discussions, Ramsay Muir, then professor of history in the University of Manchester, undertook to express the opinions of the group in a little book, *Liberalism and Industry*.⁵ These forward-looking Liberals were, however, aware that their proposals were incomplete and in need of clearer definition; so they considered how they could obtain the assistance of the leading economists and industrialists of the Liberal party.⁶ At a small week-end conference held in the spring of 1921 on E. D. Simon's farm in Herefordshire, attended by E. D. Simon, Ramsay Muir, Philip Guedalla, T. F. Tweed, Edward Scott, and a few others, a summer school was decided upon as the best means of stimulating the revival of the party.⁷ It was believed that, in a summer school, research for a party policy could be carried on under conditions more conducive to quiet deliberation than in the ordinary political meeting or conference, and that the apathetic mass of the party might be educated to accept progressive ideas. Moreover, it was conceived that a summer school sponsored by

⁴ See, as an early analysis to this effect, Harold Spender, "The War and the Parties," *Contemporary Review*, Vol. 113, pp. 135-143 (February, 1918).

⁵ See Ramsay Muir, *Liberalism and Industry* (London, Constable, 1920), and especially the preface of the American edition (Boston and New York, Houghton Mifflin, 1921); A. P. Nicholson, *The Real Men in Public Life: Forces and Factors in the State* (London, Collins, 1928), p. 264; E. D. Simon, "The Liberal Summer School," *Contemporary Review*, Vol. 130, pp. 298-303 (September, 1926), at p. 299.

⁶ See editorial comment in the *Manchester Guardian*, August 3, 1923.

⁷ See Ramsay Muir's account of the origin of the Liberal Summer School in the *Weekly Westminster*, August 2, 1924.

persons not formally connected with the official party organization would be unhampered by the timidity and caution characteristic of an established institution. It might be expected to proceed more boldly, and to propose the radical solutions that the circumstances seemed to demand. This small group of Liberals accordingly decided to sponsor a summer school to meet in 1921. They reserved the accommodations of a hotel at Grasmere, a resort in the lake district, for the last week of September, and invited about a hundred of the younger Liberals to meet there for discussion.

The first Liberal Summer School was in session at Grasmere, September 26-30, 1921.⁸ It was attended by about 70 persons from many walks of life. Not a single leader, or member of Parliament, or paid official of the Liberal party was present. No attempt had been made to fill the program with set lectures and papers. At each plenary session of the school, one person was designated to open the discussion and to sum up at the close. Smaller groups met at odd moments to continue the discussions. The dominant interest of the school was the same as that of the Manchester group—to discover a Liberal industrial policy. The school did not, however, succeed in formulating such a policy; the discussions served rather to reveal the sharp differences of opinion that existed within the Liberal party at that time. But there was general agreement on the value of the summer school as a method of realizing the common aim of the group, and a desire to arrange matters so that the discussions might, in future years, influence a larger number of members of the party. It was accordingly decided that the Liberal Summer School should become a permanent institution, and that it should be held each year in a convenient location, and organized in such a way that it might be attended by hundreds of Liberals. This desire for a large attendance, and the further decision that the Liberal Summer School should be held alternately in Oxford and Cambridge, reveal that the founders had in mind as their model the University Extension summer meetings, rather than the Fabian Summer School. The members of the first Liberal Summer School chose an executive committee, which was charged with responsibility for planning the subsequent meetings.

In 1922, the Liberal Summer School assumed in most respects the form that it has since retained.⁹ In that year, the sponsors of the school in-

⁸ Accounts of the first Liberal Summer School were written by special correspondents, who attended the meetings, of the *London Times* (issues of September 2, 26, and 28, 1921) and of the *Manchester Guardian* (issues of September 28, 30, and October 1, 1921). Philip Guedalla's recollections of the school may be found in the *Weekly Westminster*, August 2, 1924.

⁹ On the 1922 session, see the *Federation News* (organ of the Women's National Liberal Federation), No. 13 (March, 1922); *London Times*, March 10, August 2, 3, 5, 10, 1922; *Manchester Guardian*, August 1, 2, 5, 7, 8, 9, 1922; *Liberal Magazine*,

augurated the practice of holding the meetings in either Oxford or Cambridge, with the dates selected so as to include the August bank holiday. This plan resulted in a much larger attendance, as about 600 persons were present at the school at Oxford, August 1-9, 1922. The summer school movement received the blessing of Lord Oxford, who, as Mr. Asquith, was then leader of the Liberal party. Lord Oxford gave the opening address at the first evening session, and praised the summer school as an experiment which might prove an important factor in the revival of the Liberal party. Since 1922, the committee of the Liberal Summer School has made it a regular practice to obtain a prominent party leader to open the program of each annual meeting. The practice was also inaugurated in 1922 of transforming the last session of the school into a public meeting for propagandist purposes, with a prominent politician as the speaker. A large hall is obtained for the purpose, and on some occasions as many as 3,000 persons have attended these rallies. Propagandist meetings have not, however, been held in connection with all the sessions of the Liberal Summer School, especially those following the disappointment of the party in the election of 1929.

The relatively long session of 1922 was solidly filled with lectures and papers, given by Liberal politicians and college professors. There were two sessions daily except Sunday, one in the morning and one in the evening. Two papers or lectures were heard at the morning session and one in the evening, each being followed by an opportunity to question the speaker. The informal and extensive discussions of political and economic subjects by the rank and file of the school, as had occurred the previous year at Grasmere, were not duplicated at Oxford in 1922. Observers of the Oxford school recorded that the questioning of speakers was desultory, and that a spirited discussion followed only one paper—that of W. T. Layton. The Liberal Summer School thus took shape at this early date as an institution designed to give an opportunity to the relatively few active, thinking, and articulate members of the party to air their opinions for the edification and inspiration of a large assembly of party members.

The program of the 1922 school was not, as in the previous year, limited to industrial subjects. The papers and lectures now covered a wide range of subjects—foreign policy, the League of Nations, armaments, international finance, mandates and national minorities, Egypt, India, national finance, wage policy and practices, public ownership, the mining industry, and the machinery of government. This catholicity of interests has been characteristic of all subsequent Liberal Summer Schools, except that of 1927, which returned to the original theme of industrial policy.

Vol. 30, pp. 230-231, 454-461, 577-616 (April, July, September, 1922); *Weekly Westminster*, August 2, 1924; E. D. Simon, "The Liberal Summer School," *Contemporary Review*, Vol. 130, pp. 298-303 (September, 1926), at pp. 299-300.

A number of the papers and lectures of the 1922 school were collected and published as an inexpensive volume.¹⁰

In the 1923 school, held at Cambridge, August 2-9, a plan was initiated to encourage more general participation in the discussions of the topics dealt with in the lectures and papers.¹¹ Two large committee rooms were provided, in each of which the interested members of the school could assemble late in the afternoon to question the author of one of the papers read in the morning session, and to engage in an informal discussion of the subject of the paper. This plan met with high approval at the time, and similar afternoon discussions have been a regular part of the programs of all subsequent schools. These discussions have made it possible for the more enthusiastic members to take a direct part in the work of the school. The fundamental character of the school as an agency for the expression of the ideas of a relatively small number of Liberal thinkers has, however, not been changed.

The Liberal Summer School of 1924, held at Oxford, July 30-August 6, exhibited no unusual features in program or administrative arrangements, but was regarded by many friends of the movement as the most successful session up to that time.¹² An innovation at the 1925 school, held at Cambridge, July 29-August 5, was the appearance of some foreign liberals on the program.¹³ In 1928, the usual program of lectures and papers was varied by holding debates on three successive evenings.¹⁴ These debates

¹⁰ *Essays in Liberalism* (London, Collings, 1922).

¹¹ On the 1923 session, see *London Times*, June 12, August 4, 9, 10, 1923; *Manchester Guardian*, August 3, 4, 6, 8, 10, 1923; Barbara Bliss, "The Liberal Summer School," *Federation News*, No. 28 (October, 1923); *London Nation*, Vol. 33, pp. 590-592, 597-612 (August 11, 1923); *Liberal Magazine*, Vol. 31, pp. 534-535 (September, 1923), Vol. 32, p. 414 (July, 1924). In 1923, the *Daily News* began to publish some of the most important papers read at the summer school as pamphlets in what was called "The New Way Series." In the next four years, fifteen pamphlets on a variety of subjects were published.

¹² On the 1924 session, see *London Times*, May 13, July 31, August 1, 2, 4, 5, 7, 1924; *Manchester Guardian*, July 30, 31, August 1, 2, 4, 5, 6, 7, 1924; *Weekly Westminster*, July 26, August 9, 1924; *London Nation*, Vol. 35, p. 580 (August 9, 1924); *Liberal Magazine*, Vol. 32, p. 521 (September, 1924).

¹³ On the 1925 session, see *London Times*, July 30, 31, August 1, 3, 4, 5, 6, 1925; *Manchester Guardian*, July 29, 30, 31, August 1, 3, 4, 5, 1925; *Weekly Westminster*, August 8, 1925; *Liberal Magazine*, Vol. 33, p. 540 (September, 1925). On the 1926 session, see *London Times*, April 3, June 15, July 9, 24, 26, 27, 29, 30, 31, 1926; *Manchester Guardian*, July 24, 26, 27, 28, 29, 30, 31, 1926; *Westminster Gazette*, July 31, 1926; *London Nation*, Vol. 39, pp. 434-435 (July 17, 1926); *Liberal Magazine*, Vol. 34, pp. 463-466, 520-523 (August, September, 1926). On the 1927 session, see *London Times*, March 29, June 29, July 29, August 1, 2, 3, 4, 5, 1927; *Manchester Guardian*, July 29, 30, August 1, 2, 3, 5, 1927; *Liberal Magazine*, Vol. 35, p. 445 (July, 1927); *Liberal Women's News*, No. 68 (September, 1927); *New Statesman*, Vol. 29, p. 500 (July 30, 1927).

¹⁴ On the 1928 session, see *London Times*, August 6, 7, 8, 9, 10, 1928; *Manchester Guardian*, August 2, 3, 4, 6, 7, 8, 9, 10, 1928.

were significant also in that they marked the first appearance of Socialists and Conservatives as speakers at a Liberal Summer School. The committee of the Liberal Summer School has never been narrowly partisan in choosing speakers to appear on the programs. Liberals and Conservatives have also served from time to time as speakers at the summer schools of the Fabian Society and the Independent Labor party. The interchange of speakers indicates that the political summer schools, if they have not succeeded in attaining a truly academic attitude, have at least avoided the excesses of partisanship.

The Liberal Summer School has continued to meet regularly in August of each year at Oxford or Cambridge. The attendance at each school increased steadily down to 1928, except in 1926, when a conflict with another large assembly in Oxford made it necessary to hold the school a week earlier than usual. The attendance at two or three of the summer schools preceding the Liberal disappointment in the election of 1929 was about 1,000. Since 1929, as part of the general decline of the Liberal party, the summer school has lost in popularity, until in some years hardly more than 100 persons have been in attendance. It appears that a nucleus of members have attended regularly each year from the beginning, but a number of observers have from time to time recorded that more than half of the membership of each school has been made up of newcomers.

The members of the Liberal Summer School pay their own expenses, and also contribute to the expenses of the school by paying a registration fee of ten shillings each. The expenses of the school consist of rent, postage, printing, and similar items. No speaker at a Liberal Summer School has ever been paid a fee, nor even his expenses. A limited number of scholarships have from time to time been provided, to make possible the attendance of able persons of limited means. The announcements of the schools often state that many local Liberal Associations and Liberal Federations have arranged to grant scholarships on a competitive basis. Similar awards of scholarships have been made by certain newspapers, especially the *News Chronicle* and the *Starmer* group of papers. During Ramsay Muir's brief editorship of the *Weekly Westminster* (November 3, 1923-January 30, 1926), that paper sponsored a scholarship fund, subscribed by well-to-do friends of the Liberal Summer School.¹⁵ Awards were made to the winners of an essay-writing contest. In 1927, the National League of Young Liberals collected a fund, and awarded scholarships in a similar manner.¹⁶ The scholarships usually have the value of £5, with smaller consolation prizes for the runners-up.

¹⁵ *Weekly Westminster*, May 17, 24, 31, July 19, 1924; May 23, 30, June 6, July 18, 1925.

¹⁶ See *Forward View* (organ of the National League of Young Liberals), Vol. 1, No. 5 (May, 1927).

Recreational and social activities do not occupy as large a place in the programs of the summer schools of the Liberal party as in those of the Socialist groups. The recreational side of the first Liberal Summer School at Gresmere was not organized in any formal way. Some of the discussions were held in the open air, and in other ways the members of the school enjoyed the amenities of the countryside. Beginning with the 1922 school, the afternoons have been left free for recreational purposes. Dances, teas, garden parties, and excursions to near-by points of interest are organized, and facilities are provided for boating, tennis, and other sports. After the address on the last evening of the school, the younger members usually present a political skit or revue in which leading figures and recent events in the political world are burlesqued.

The Liberal Summer School has never been hampered by a rigid organization. As E. D. Simon has said, it has no constitution—not even an unwritten one.¹⁷ A program committee, which is structurally a sub-committee of the council of the Liberal Summer School, is appointed for each session.¹⁸ The executive committee, chosen at the first Liberal Summer School, has served continuously since that time without reelection. The only change has been the coöption of other Liberals to form a larger and more representative council. The absence of formal connection between the summer school and the official organization of the party has often been emphasized. It is true that at the beginning the summer school group included no member of Parliament, nor any person connected with the central party organization.¹⁹ As the years passed, the connection between the summer school and the party organization became much closer. The frequent appearance of party leaders as speakers at the summer school was evidence of this. When Ramsay Muir was appointed secretary of the Liberal Central Office (1929), and when he was later elected to the chairmanship of the National Liberal Federation (1931), there was at least a personal connection between the summer school and the official party organization. The relationship became closest in 1928, when the summer school group was received enthusiastically into the bosom of the party and allowed to dictate the official party policy.²⁰

The success of such an undertaking as the Liberal Summer School always depends largely upon the work of the general secretary. This office was held until 1927 by T. F. Tweed, who was at the same time the organizing secretary of the Manchester Liberal Federation, and during this time the office of the Liberal Summer School was maintained in Man-

¹⁷ E. D. Simon, "The Liberal Summer School," *Contemporary Review*, Vol. 136, pp. 273-279 (September, 1929), at p. 279.

¹⁸ See the annual announcements of the sessions and Ramsay Muir's account of how the programs are constructed, *Weekly Westminster*, August 9, 1924.

¹⁹ *Weekly Westminster*, August 2, 1924.

²⁰ See editorial comment on the relation between the summer school and the party, *Manchester Guardian*, August 2, 1928.



chester. Since 1927, the general secretary has been Miss Sydney Brown, and the office has been maintained in London.²¹

The Liberal Summer School, as the name implies, is an educational agency of the Liberal party. It has been employed only incidentally as a means of obtaining new recruits for the party. The vast majority of the persons who attend its sessions are already convinced Liberals. They are preponderantly middle-class persons of some means, ranking well above the average in intelligence and formal education. There can be no doubt that most of the persons who attend the Liberal Summer School have a real desire for reflection and study. They have a serious interest in obtaining instruction upon current social, economic, and political problems, and the Liberal attitude towards them. A settled tradition exists that the speakers at the summer school shall discuss their subjects in an academic manner, and shall carefully avoid the catch phrases and emotional appeals so characteristic of the ordinary political speech.²² All told, the Liberal Summer School is really a school, and a considerable part of the more active adherents of the party have received instruction in its sessions.

While important to the Liberal party as an educational agency, the summer school has, however, rendered more valuable services as an institution for research. Its most valuable service in this connection has doubtless been the provision of a forum where individuals may contribute the results of their researches, but its stimulation and sponsorship of coöperative research have also been of special significance. Some of the papers read at early sessions of the school were the result of long discussion and research by the executive committee of the summer school, after which the writing and presentation of the paper was entrusted to one member.²³ In 1924, a permanent research department was set up in connection with the summer school.²⁴ Throughout its two years of existence

²¹ *London Times*, March 29, 1927.

²² See the records of the 1924 session for comments on the late C. F. G. Masterman's departure from the "summer school manner" in his speech on "Unemployment and Security of Livelihood."

²³ See the remarks of Ramsay Muir in the *Weekly Westminster*, August 2 and 9, 1924. Probably the most important papers of this class were the following, which were presented as part of the 1923 program: Sir William Beveridge, "Insurance for All and Everything," *New Way Series*, No. 7; A. D. McNair, "The Problem of the Coal Mines," *ibid.*, No. 8. It has been repeatedly claimed that the former of these papers influenced the policy of the Conservative government of 1924, and that the latter was the germ of the report of the royal commission on the coal industry in 1926; see Ramsay Muir, *Weekly Westminster*, August 2, 1924, and "The Liberal Summer School and the Problems of Industry," *Contemporary Review*, Vol. 132, pp. 282-289 (September, 1927); E. D. Simon, "The Liberal Summer School," *ibid.*, Vol. 130, pp. 298-303 (September, 1926); and editorial comment in the *London Nation*, Vol. 39, pp. 434-435.

²⁴ *Weekly Westminster*, August 2, 1924; E. D. Simon, "The Liberal Summer School," *Contemporary Review*, Vol. 136, pp. 273-279 (September, 1929), at p. 274;

this agency was handicapped financially, and it accomplished little or nothing. Its chief activity was the conduct of what was known at the time as the "National Liberal Inquiry," which was intended as a research project to discover the trend of Liberal thought on the questions of the day, and as a kind of extension course connected with the summer school. The research department began by preparing questionnaires on a number of current problems, and these were circulated widely to Liberal organizations all over the country.²⁵ It was intended that the replies received from each of these questionnaires should be examined carefully by an expert committee, and that the committee's report should be a formulation of Liberal policy on that subject. The scheme was not successful, and no report of any value resulted.²⁶

In the meantime, another Liberal research project had been carried to completion. This was the inquiry into the condition of the coal industry, which resulted in the publication of the report, *Coal and Power*.²⁷ This investigation was sponsored and financed by David Lloyd George after his re-entry into the Liberal party in 1923. The summer school group had no formal connection with this project, although some of its members served on the committee that Lloyd George assembled about him. The committee had the assistance of numerous experts, who visited the coal fields in Great Britain, France, and Germany and submitted recommendations and memoranda. After discussion, these were embodied in the report of the committee. The committee rejected the miners' proposal for state socialism in the coal industry, and recommended instead the nationalization of the ownership of the mines with a continuance of the existing management under the supervision of a non-political commission. The committee's recommendations for a more general use of electrical power were an early influence leading to the great advances in electrification that have since been made. At the time of its publication, this report was labelled as a Lloyd George scheme, and was received

Liberal Year-Book (1925 and 1926); *Forward View*, Vol. 3, No. 32 (September, 1929).

²⁵ The subjects of the questionnaires were the drink problem, trade-union policy, inheritance, fair wages and family allowances, population problems, and the organization of industry. See the *Liberal Magazine*, Vol. 33, pp. 584-585, 625-627, 695-696, 755-757 (October, November, December, 1925); Vol. 34, pp. 57-58 (January, 1926); *Liberal Women's News*, No. 47 (October, 1925), No. 48 (November, 1925), No. 51 (February, 1926); *Weekly Westminster*, August 8, October 3, 17, and all issues until the last of this paper (January 30, 1926).

²⁶ See a summary of the results of the first questionnaire in the *London Times*, July 13, 1926. At least two of the papers read at the 1926 session of the Liberal Summer School—that of Lord Meston on the drink trade and that of H. D. Henderson on inheritance taxes—utilized the results of these inquiries.

²⁷ *Coal and Power: The Report of an Enquiry Presided Over by the Right Hon. D. Lloyd George* (London, Hodder and Stoughton, 1924).

coldly by the official party organization. Its main proposals were not adopted as official Liberal policy until over a year later, in 1925.²⁸

Still drawing upon the famous fund that had come under his personal control after the dissolution of the war-time coalition, Lloyd George speedily set up another committee. The subject of the second inquiry was the agricultural industry, and the whole problem of the utilization of the land in both rural and urban areas. This investigation resulted in the publication of a two-volume report, *The Land and the Nation and Towns and the Land*.²⁹ Again, the summer school group had no formal connection with the work. This elaborate report does not lend itself to summary. Its most striking features were the recommendation that the state should assume the overlordship of cultivable land, dispossessing the landlords and letting out the land on a basis of "cultivating tenure," while requiring the tenants to pay annuities to the former owners; and its trenchant attack upon the slum conditions of the cities. Early in 1926, shortly after the publication of this report, the executive committee of the National Liberal Federation submitted policy resolutions embodying the main proposals, first to the Liberal and Radical Candidates Association, and later to a special conference in which all important Liberal organizations were represented. These organizations modified the proposals to admit of a variety of tenures for land taken over by the state.³⁰ Modified in this way, the proposals of the Lloyd George land committee were adopted by the regular conference of the National Liberal Federation in 1926, and became the official policy of the party.³¹

The two research movements within the Liberal party—the Liberal Summer School and the well-financed projects of Lloyd George—were brought together for united action in 1926 in the "Liberal Industrial Inquiry." The special talents of the semi-academic summer school group, which had for some years been studying the problems of industry, and the brilliant leadership of Lloyd George were thus unified in the service of party and state. From the fund at his disposal, Lloyd George placed a considerable sum on deposit for the Liberal Summer School to finance an extended study of the condition of British industry. The executive com-

²⁸ Ramsay Muir, "The Liberal Party," *Contemporary Review*, Vol. 130, pp. 6-13 (July, 1926), at p. 9; National Liberal Federation, *Proceedings in Connection with the 48rd Annual Meeting . . . 1926*, pp. 14-15.

²⁹ *The Land and the Nation: Rural Report of the Liberal Land Committee, 1923-1925* (London, Hodder and Stoughton, 1925); *Towns and the Land: Urban Report of the Liberal Land Committee, 1923-1925* (London, Hodder and Stoughton, 1925).

³⁰ National Liberal Federation, *Proceedings in Connection with the 48rd Annual Meeting . . . 1926*, pp. 11-12.

³¹ *Ibid.*, pp. 43-47; *Land Policy Proposals as Adopted at the Liberal Conference Held in the Kingsway Hall, London . . . February 17th, 18th, and 19th, 1926* (London, Liberal Publication Department, 1926).

mittee of the Liberal Summer School took full charge and selected an executive committee of the Liberal Industrial Inquiry, which in turn invited other persons to serve on sub-committees and employed a staff of experts. The persons who took the leadership in the Liberal Industrial Inquiry were those who had been prominent from the first in the Liberal Summer School, but they now found themselves associated with the principal parliamentary leaders of the party.

The executive committee of the Liberal Industrial Inquiry began its work by dividing up the broad field of research, placing each section in charge of a sub-committee. Sub-committees were created on the following subjects: general survey of the industrial situation, functions of the state in relation to industry, industrial and financial organization, trade-unions, wages and the status of the worker in industry, and unemployment. These subjects indicate the extraordinary breadth of the inquiry. The sub-committees were provided with adequate secretarial services, and with a staff of experts of about a half-dozen members. To obtain the factual information for their study, the committee members supplemented their own knowledge and experience by holding many semi-public hearings to which persons were invited regardless of party affiliation, and studied innumerable reports and memoranda submitted by their own experts. The findings and recommendations of all the sub-committees were later submitted to the general executive committee, and thoroughly discussed and coördinated by it.³² The final result was the comprehensive report published as *Britain's Industrial Future*, commonly known as the "Yellow Book."³³

This report was a realization of the original purpose of the summer school movement. It was a detailed formulation of Liberal policy on a broad range of social and economic subjects. Its many proposals included schemes for a Board of National Investment to plan the uses of the national savings, an economic advisory staff for the cabinet, legislation to secure a more equitable distribution of the earnings of industry, the representation of workers in the control of industry, and an ambitious program of public works and national development as a cure for unemployment. Throughout March, 1928, these proposals were discussed in a dozen regional conferences of the National Liberal Federation, and received general approval.³⁴ Later, a series of resolutions, expressing the

³² On the administrative organization and procedure of the Liberal Industrial Inquiry, see the preface to its report; Ramsay Muir, "The Liberal Summer School and the Problems of Industry," *Contemporary Review*, Vol. 132, pp. 282-289 (September, 1927), at p. 287; *London Times*, January 29, 1927.

³³ *Britain's Industrial Future: Being the Report of the Liberal Industrial Inquiry* (London, Benn, 1928).

³⁴ Ramsay Muir, "Liberalism and Industry," *Contemporary Review*, Vol. 133, pp. 555-563 (May, 1928).

principal recommendations of the Liberal Industrial Inquiry, were enthusiastically endorsed by a special conference of the National Liberal Federation, which was attended by some 2,000 delegates representing Liberal organizations all over the country.³⁵ The report thus became the official policy of the party. In this event, the Liberal Summer School reached the zenith of achievement and influence within the Liberal party. From humble beginnings, the summer school group had now reached a position of intellectual leadership, and its members were accepted as the prophets of the party. They had endowed the party with a platform relating to economic questions.

The prospects of the Liberal party before the election of 1929 did indeed seem bright. Equipped with a rejuvenated organization and a new policy, and generously financed from the Lloyd George fund, it seemed that the party had real chances of persuading the electorate to adopt a middle way. It was not supposed, of course, that many voters would read the 500 pages of the Yellow Book, and, convinced of its soundness, hasten into the Liberal ranks. To encourage wider popular knowledge of the volume, abridged editions of it were prepared,³⁶ and the Liberal election literature of 1929 contained frequent references to it and extracts from it. The Liberal election pledge, *We Can Conquer Unemployment*,³⁷ was put forward as a supplement to the Yellow Book and as an application of its general principles to specific proposals. The portion of the Yellow Book selected for campaign purposes was the recommendations for liberal spending on public works and national development. It was proposed to spend large sums on road-building, housing, telephone and electrical development, land drainage, and other projects; but the most startling feature of the scheme was that all this was not to add one penny to national or local taxation. Whether out of suspicion of the financial aspects of the scheme, or from general disbelief in the efficacy of a public works program as a cure for unemployment, or for some other reason, it

³⁵ National Liberal Federation, *Industrial Policy Proposals Adopted at the Kingsway Hall, Kingsway, London, W. C., on March 27th, 28th, and 29th, 1928* (London, 1928).

³⁶ J. Stuart Hodgson, *The Liberal Policy for Industry: A Shorter Version of "Britain's Industrial Future," The Report of the Liberal Industrial Inquiry* (London, Benn, 1928); *Fifty Points from the Liberal Industrial Report* (London, reprinted from the *Daily News and Westminster Gazette*, 1928).

³⁷ *We Can Conquer Unemployment: Mr. Lloyd George's Pledge* (London, Cassell, 1929). For favorable comment on this election pledge, see J. M. Keynes and H. D. Henderson, *Can Lloyd George Do It? An Examination of the Liberal Pledge* (London, Nation and Athenaeum, 1929). See also *How to Conquer Unemployment: Labor's Reply to Lloyd George* (London, The Labor Party, 1929). The Conservative government issued a reply to the Liberal proposals in a white paper with the title, "Memoranda on Certain Proposals Relating to Unemployment" (Pp. 54, Cmd. 3331), of which an extended summary is given in the *London Times*, May 13, 1929.

is a matter of history that the British electorate refused to put its trust in Lloyd George and the Liberal party. The election of 1929 was a great disappointment to the Liberals, and perhaps most of all to the summer school leaders who had spent so many years in research for a party program, only to have it rejected emphatically by the voters.

Little is to be gained by attempting to re-argue the *pros* and *cons* of the Liberal proposals as put forward in the election of 1929. The many obvious similarities between them and President Franklin D. Roosevelt's New Deal suggest that the real test of the soundness of the Liberal scheme is being made in this country. At any rate, the Liberals remained convinced of the value of their plans, and tried to force them upon the second Labor government.²⁸ In more recent years, the fissiparous tendencies of the Liberal party and other factors have resulted in the further decline of Liberalism in Great Britain, and the Liberal proposals have steadily receded into the background.

It may be argued that the fate of the Liberal party in the election of 1929 proves that research by a political party is a delusion, and that any political party that places itself in the hands of intellectuals is doomed to electoral defeat. This, however, may not be a correct interpretation of these events. It may merely be true that the heroic efforts of the Liberal Summer School to elaborate a policy were not sufficient to counteract the many other forces which were, at the same time, making for the decline of Liberalism. The results of political research cannot be measured solely in terms of electoral success. Many of the Liberal proposals put forward since the World War have been adopted and carried into effect by other parties. They have influenced both the Conservative and Labor parties, and they have attracted the attention of progressive thinkers and organizations in other lands. It is often the thankless task of opposition, or "third," parties to furnish ideas to their political opponents.

One thing is, however, clear. The results of research, such as that carried on by the Liberal Summer School, are not for popular consumption. A vast electorate cannot be appealed to on such a plane. Political research cannot ever be cloistered, completely removed from the influences of the arena of conflict. The Liberal research agencies always kept up realistic contacts with the world of active politics; yet their reports have certainly not been suited for use as campaign documents. It is necessary to simplify, to explain, to translate into tabloid form. The Liberal experience suggests that they—even under the leadership of as clever a politician as Lloyd George—did not succeed in developing the right techniques for the purpose. It suggests, indeed, that new political techniques are needed, such as have not yet been developed anywhere.

²⁸ *How to Tackle Unemployment: The Liberal Plans as Laid before the Government and the Nation* (London, 1930).

Not much more needs to be said about the Liberal Summer School. It reached the climax of its development in 1929, and since that date it has declined along with the party itself. Its sessions have been held regularly each year, and it is still the focal point of intellectual inquiry within the party. Some attempts have been made in recent years to make it the rallying point for all persons of progressive sentiments regardless of party; to make it, in other words, the nucleus of a new center party. This is not the only effort to create a united front of the center of British politics, and, like the others, it does not seem to have attained much success. The effort is significant chiefly because it shows that the summer school group is maintaining its organization and ideals in the face of adversity, and that, should conditions change in the future and seem to make possible a Liberal revival, the summer school may be expected to play a rôle of first importance.

After the initial successes of the Liberal Summer School, a number of local summer schools and week-end schools sprang up in different parts of England, Scotland, and Wales in imitation of the national school. Probably the first of the local Liberal summer schools were organized in 1924, when no less than eight were held.³⁹ Of the many local summer schools, the Scottish Liberal Summer School, the Welsh Liberal Summer School,⁴⁰ and those sponsored by the Liberal Associations of Manchester⁴¹ and Birmingham⁴² have become permanent institutions, holding sessions regularly each year. The annual session of the Scottish Liberal Summer School is held during three days in June or September, in one of the large centers of population.⁴³ It is administered by a council that is representative of the Scottish Liberal Federation, Liberal clubs, the women's and young people's auxiliaries, and other organizations. The programs are similar, in general plan, to those of the national school, except that as many as six lectures or papers may be given in one day. The programs reveal a broad interest in the leading subjects of political controversy. The opening address is usually delivered by a prominent politician, and the Friday evening session is transformed into a public meeting and held in a large hall. Social hours and a public reception are regular features of

³⁹ See the remarks of Ramsay Muir in the *Weekly Westminster*, August 9, 1924, and of E. D. Simon at the 1924 session of the Liberal Summer School, as reported in the *Manchester Guardian*, July 31, 1924.

⁴⁰ On the early sessions of the Welsh Liberal Summer School, see the *Weekly Westminster*, April 26, 1924, and November 7, 1925.

⁴¹ The writer was given information on the educational work centering in Manchester by the secretary of the Lancashire, Cheshire, and Northwestern Liberal Federation.

⁴² *Forward View*, Vol. 2, No. 23 (November, 1928); Vol. 3, No. 33 (October, 1929); Vol. 4, No. 46 (November, 1930).

⁴³ The writer was given information on the Scottish Liberal Summer School by its secretary.

the programs. The average attendance at the Scottish Liberal Summer School has been about 100, each person contributing five shillings to the support of the school.

The local summer schools differ from the national school in two important respects. In the first place, the local schools are sponsored by the regular party organizations. They are in no way the result of a spontaneous and popular movement within the party. In the second place, the crowded nature of their programs leaves little or no opportunity for discussion or any other kind of participation by the persons in attendance. The local schools are thus exclusively educational institutions, and do not supplement the research activities of the national school.⁴⁴ The local schools are primarily training centers for persons who take active part, as speakers and canvassers, in the local campaigns.

In addition to the summer schools, the educational activities of the Liberal party and its affiliated organizations consist for the most part of speakers' training classes, study circles, week-end schools and one-day political schools held during the winter months, and series of lectures on political subjects. Like the summer schools, these other educational activities are, as far as can be determined, developments of the post-war period. As in the other political parties, they were the result of the conviction that new techniques were needed to reach the masses, under the conditions of a greatly expanded electorate and the dominance of economic issues in politics.

In March, 1924, a Liberal Speakers' Training Association was formed.⁴⁵ This organization, in close coöperation with the central headquarters of the Liberal party, has regularly offered speakers' training courses in London, and has assisted with the provision of similar training in other centers. The primary object of these classes is to provide training in the art of political speaking, but there is also a good deal of instruction designed to provide the participants with matter for their speeches. The Women's National Liberal Federation has sent many of its members into these classes, but it has also frequently organized its own speakers' classes.⁴⁶

In February, 1923, the Liberal Study Circles Union was set up as a branch of the Liberal Publication Department.⁴⁷ The records of this

⁴⁴ But a political school in Liverpool during the winter of 1930-31 prepared a report on immigration and unemployment.

⁴⁵ *Weekly Westminster*, August 2, 1924.

⁴⁶ *Federation News*, Nos. 28 and 29 (October, November, 1923); *Liberal Women's News*, Nos. 34, 37, 42, 48 (May, October, 1924; March, November, 1925). The writer was given information on the educational activities of the Women's National Liberal Federation by its secretary.

⁴⁷ National Liberal Federation, *Proceedings in Connection with the 40th Annual Meeting . . . , 1923*, p. 15; *Ibid.* (1924), p. 14; *Weekly Westminster*, November 17, December 22, 1923; November 15, December 13, 1924. The writer was given information on the activities of the Liberal Study Circles Union by its secretary.

organization soon showed that several hundred study circles were meeting regularly in all parts of the country. The secretary selects inexpensive books suitable for study by informal groups of voters, prepares a syllabus for each, and furnishes advice on how to organize and conduct study circles. The initiative in the organization of a study circle is usually taken by some enthusiast, who collects together a few interested persons, and then requests the central office to provide the printed material. Ramsay Muir's books, the "New Way" pamphlets, and the series of Liberal reports have been favorite material for the study circles. A study circle usually meets fortnightly, in the homes of the members. Each meeting is devoted to the discussion of a portion of the book being read. The Women's National Liberal Federation and the National League of Young Liberals have done much, through their publications and organizations, to popularize the study circle as a political activity, and have furnished the membership of many.⁴⁸ In 1925, the Liberal Publication Department began to provide a circulating library, in the form of book boxes, for the use of the study circles.⁴⁹

Many Liberal organizations offer lecture courses during the winter months. Each year one or more series of lectures on political subjects is offered in London, sponsored by the political committee of the National Liberal Club, the council of the Liberal Summer School, the Liberal Candidates Association, or some other body. Similar courses are often given in other large centers, such as Manchester and Birmingham. One of the most successful of these lecture courses is the Merseyside Liberal School, founded in 1924, which meets fortnightly during the winter months in the Reform Club, Liverpool. It is in the nature of a combined lecture course and study circle, as provision is made for participation by the audience. During the winter of 1927-28, the National Liberal Federation sponsored fifteen lecture courses in various parts of the country for the purpose of training party agents for service during the election of 1929. Over 500 persons enrolled for the training, and over 100 passed the examination which terminated the course, thus qualifying for employment as agents.⁵⁰

⁴⁸ *Federation News*, Nos. 23 and 24 (March, April, 1923); *Liberal Women's News*, No. 37 (October, 1924); Elliott Dodds, "Our Job," *Forward View*, Vol. 1, No. 2 (February, 1927); F. C. Thornborough, "The Young Liberal Movement Since the War," *ibid.*, No. 4 (April, 1927). During the winter of 1926-27, study circles were reported in four branches of the National League of Young Liberals; in 1927-28, nine branches; in 1928-29, fourteen branches; in 1929-30, eight branches; in 1930-31, four branches. See the *Forward View*, *passim*. In addition, a number of branches conducted speakers' classes.

⁴⁹ National Liberal Federation, *Proceedings in Connection with the 42nd Annual Meeting . . . 1925*, p. 12; F. C. Thornborough, as cited, note 48 *supra*.

⁵⁰ National Liberal Federation, *Proceedings in Connection with the 45th Annual Meeting . . . 1928*, pp. 97-98.

Two groups within the National League of Young Liberals have held week-end schools regularly for a number of years. These are the Yorkshire Young Liberals, who held their first week-end school early in 1925,⁵¹ and the Young Liberals of Southeast Lancashire, who followed suit later in the same year.⁵² The week-end schools of the Young Liberals are held at some country resort, from Saturday noon to Monday morning. A pleasant outing is combined with a course of lectures on political and economic subjects. The week-end schools are held at a cost of about one pound per person, in addition to the expense of transportation.

The Young Liberals have also been responsible for some research projects. In 1926, the Yorkshire group published a report on Liberal social policy.⁵³ Since 1927, the National League of Young Liberals has had a research committee, which is structurally a sub-committee of its executive committee. The annual conferences instruct this committee to bring in reports upon specified subjects, and a number of reports have been prepared and published as supplements to the magazine of the organization.⁵⁴ The research committee proceeds by dividing up the subject for investigation and assigning each part to one member for special study. Later the committee assembles for one or more week-end conferences. At these conferences, the members of the committee are expected to present the results of their study, and outside experts are invited in for consultation. The report is then prepared and circulated among the persons concerned.

The Liberal party is, of course, indebted to the Socialist groups and the agencies of adult education for suggestions as to the procedures and techniques of political education. The Liberals have not invented any new method of instructing party supporters. They have, however, successfully adapted well-known techniques to their own ends, and they have reached many more persons through their educational efforts than have the Socialist groups. The distinctive contributions of the Liberals in the field of political education have been the adaptation of the summer school to research, as well as educational, purposes for the benefit of a political party, and their exploratory efforts in the use of research materials in political campaigns.

JOSEPH R. STARR.

University of Minnesota.

⁵¹ *Weekly Westminster*, April 25, 1925; *Forward View*, Vol. 1, No. 1 (January, 1927).

⁵² *Weekly Westminster*, August 22, 1925; *Manchester Guardian*, August 3, 1925.

⁵³ *Forward View*, Vol. 1, No. 1 (January, 1927).

⁵⁴ See, as early examples, "A Report on Electoral and Constitutional Reform," *Forward View*, Vol. 2, No. 13 (January, 1928); "The Taxation of Inherited Wealth," *ibid.*, No. 14 (February, 1928); "The Housing of the People," *ibid.*, No. 15 (March, 1928); and a report on the reform of local government, *ibid.*, Vol. 3, No. 27 (March, 1929).

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

The thirty-third annual meeting of the American Political Science Association will be held at the Bellevue-Stratford Hotel, Philadelphia, on Monday, Tuesday, and Wednesday, December 27 to 29 inclusive. By earlier decision of the Association, predominant attention will be given at this meeting to the Constitution of the United States, in recognition of the sesquicentennial of the Convention of 1787. However, round tables for the morning periods will provide the usual variety of topics for members whose primary interests lie in other fields of political science. These round tables, with their leaders, will be as follows: (1) "The Future of the Federal System," W. B. Graves, Temple University; (2) "Political Trends in Europe," C. B. Robson, University of North Carolina; (3) "Training for the Public Service," D. G. Stone, Public Administration Service; (4) "The Far East," J. R. Hayden, University of Michigan; (5) "Changing the Constitution," W. F. Dodd, Chicago, Illinois; (6) "Present Tendencies in Political Parties in the United States," A. R. Hatton, Northwestern University; (7) "National Administrative Organization," Lloyd M. Short, University of Minnesota; (8) "The Government and Labor Relations," Ford P. Hall, University of Indiana; (9) "Teaching Problems in Political Science," Don Hudson, Northwest Missouri State Teachers' College; and (10) "The Constitution and Foreign Affairs," D. F. Fleming, Vanderbilt University. The three noon luncheon sessions and the three general sessions, on Monday afternoon, Tuesday afternoon, and Tuesday evening, will be devoted to the discussion of constitutional questions. Addresses will be given by well-known constitutional authorities drawn from the membership of the Association and from outside. Professor Powell's presidential address is scheduled for Tuesday evening.

By appointment of President Powell, the committee to nominate officers of the American Political Science Association for the year 1938 will be as follows: Finla G. Crawford, Syracuse University, chairman; Orrin C. Hormell, Bowdoin College; Charles E. Martin, University of Washington; Harold S. Quigley, University of Minnesota; and Russell M. Story, Pomona College.

After three years as a member of the U. S. Civil Service Commission, Dr. Leonard D. White resigned in June in order to return to his professorship of public administration at the University of Chicago.

Professor Kenneth Colegrove, of Northwestern University, taught in the recent summer session of the University of California at Berkeley.

Professor Francis W. Coker, of Yale University, gave courses at Northwestern University during the recent summer session.

Professor Graham H. Stuart, of Stanford University, taught in the recent summer session at New York University.

Mr. Ray L. Thurston, who received his doctorate at the University of Wisconsin in June, has been appointed vice-consul at Toronto, Canada.

Dr. Egbert S. Wengert, instructor in political science at the University of Wisconsin, has accepted a position at Wayne University and will devote half of his time to the Detroit Bureau of Government Research.

Dr. Arnold Tilden, of the University of Southern California, has been appointed instructor in political science at Arizona State Teachers' College.

Professor J. A. C. Grant, of the University of California at Los Angeles, taught during the summer session in the department of political science at Berkeley.

Dr. Henry F. Angus, head of the department of political science and economics at the University of British Columbia, served as professor of political science at Stanford University during the past summer.

Professor Hugh McD. Clokie, of Stanford University, has been granted sabbatical leave for the year 1937-38.

Messrs. J. William Robinson and Walter T. Bogart, of Stanford University, have been appointed instructors in political science at Purdue University and Middlebury College, respectively. Miss Victoria Schuck has accepted an assistant professorship at the Florida State College for Women.

Dr. Thomas C. Geary, who recently completed his graduate work at the University of Iowa, has been appointed assistant professor of political science at the University of South Dakota.

Professor Everett S. Brown, of the University of Michigan, has been granted sabbatical leave for the next academic year, which he will spend in travel abroad.

Professor Frederick H. Guild, while continuing as director of research for the Kansas Legislative Council, will return to the University of Kansas this fall to teach one course in the department of political science during each semester. Dr. Walter Sandelius will continue as acting chairman of the department.

Professor Bertram W. Maxwell, of Washburn College, will spend the

coming academic year in Geneva, Switzerland, working on a manuscript on international relations.

Mr. Harry W. Marsh, formerly on the staff of the National Civil Service Reform League and first deputy of public welfare for the City of New York since 1934, has been appointed director of the newly established Connecticut department of personnel.

Aided by a grant from the faculty research fund, Professor Howard B. Calderwood, of the University of Michigan, is spending the summer in Geneva, studying the Secretariat of the League of Nations.

Mr. Grover Clark, formerly a member of the faculty of the National University of Peiping and lecturer at Columbia University, and known to students of international relations for his writings on China, has been appointed professor of economics at the University of Denver.

Dr. Walter H. C. Laves has resigned as James S. Sherman professor of political science at Hamilton College and will continue his work as director of the Midwest Office of the League of Nations Association in Chicago. He has been appointed lecturer in political science at the University of Chicago for the year 1937-38.

At the University of Washington, Dr. Linden A. Mander has been promoted to a full professorship and Dr. Maxim von Brevern to an assistant professorship.

After spending the past year as a forum leader in the public forums of California and Seattle, sponsored by the U. S. Office of Education as experiments in adult civic education, Dr. John B. Mason has joined the social science department of the Santa Ana Junior College, Santa Ana, California. In his new position, he will continue his work as a forum leader in the Orange county (California) public forums.

Mr. Fordyce Luikart, of Syracuse University, has been appointed assistant professor of social science at the Brockport State Normal School, Brockport, N.Y.

Mr. David M. French, formerly of Western Reserve University, has been appointed instructor in political science at the University of Michigan.

Mr. Floyd McCaffree has been awarded a Michigan-Brookings fellowship to enable him to complete his work on "Nomination and Confirmation of Justices of the Supreme Court of the United States."

On June 12, Dr. Roderick Lewis Carleton, associate professor of political science and head of the department at Louisiana State University,

died from the results of an automobile accident. He was a graduate of Louisiana State University and did his graduate work at the University of Illinois, with interest primarily in the field of local government. During the past year he served as director of a newly created bureau of governmental research at his institution.

An informally organized group known as the Connecticut Valley Conference of Political Scientists held its annual meeting at Dartmouth College on May 22, with addresses by Professor Karl Loewenstein, of Amherst College, on "Legislative Control of Fascism in Contemporary Europe," and Frederick L. Schuman, of Williams College, on "Leon Trotsky, Renegade or Martyr?"

At the Seventh Institute of Foreign Affairs held at Earlham College, Richmond, Indiana, May 13-15, addresses were delivered and round tables led by Professors Arthur N. Holcombe, of Harvard University, on Far Eastern affairs, and Philip C. Jessup, of Columbia University, on neutrality, and by Hon. Green H. Hackworth, legal adviser to the Department of State, also on neutrality.

Plans for the new Graduate School of Public Administration at Harvard have been further developed as a result of a series of conferences during the spring between members of the School's faculty and some seventy-five public officials. It has been determined to postpone formal opening of the School until the autumn of 1938, to continue in the meantime the present task of exploration, and so to shape the School's future work as to focus attention primarily upon persons already in government employ. The dean of the School will be Professor John H. Williams, at present professor of political economy at Harvard and vice-president of the Federal Reserve Bank of New York.

The Lucius N. Littauer Foundation has granted \$100,000 to the permanent endowment of the Graduate Faculty of Political and Social Science, composed largely of German and Italian scholars exiled by the Hitler and Mussolini régimes, and popularly known as the University in Exile. The Faculty, which is housed with the New School for Social Research, New York City, has recently been giving instruction to no fewer than 274 graduates of American colleges and universities.

Hon. Frank B. Kellogg has given Carleton College, at Northfield, Minnesota, the sum of \$500,000 to be used in establishing and maintaining a "foundation for education in international relations." In addition to four scholarships for foreign students at Carleton and two for Carleton students abroad, the fund will provide for a special instructional staff of two full-time professors, with also one half-time professor from a foreign

country. One full-time member of the staff will spend one semester each year visiting other countries.

Under the direction of Dr. W. Ballentine Henley, acting dean of the School of Government, the ninth annual session of the Institute of Government was held at the University of Southern California, June 14-18. The program covered a very wide range of topics, with emphasis upon governmental functions. Among persons from elsewhere taking part in the proceedings were Mr. Sanford Bates, former director of the federal bureau of prisons; Professor Henry M. Busch, of Western Reserve University; Mr. Carl H. Chatters, executive director of the Municipal Finance Officers' Association; Professor William E. Mosher, of Syracuse University; and Mr. C. B. Whitnall, member of the Milwaukee metropolitan park commission.

In connection with an Institute of Far Eastern Studies held at the University of Michigan during the recent summer session, regular courses were given and forums conducted by Professors Joseph R. Hayden on nationalism in the Far East, Roderick D. McKenzie on emigration and population movements in the Far East, and Charles F. Remer on trade, tariff, and money in the Far East.

The annual meeting of the Indiana Academy of Social Sciences was held at Hanover College, April 30 and May 1. A general session was addressed by Dr. Charles S. Ascher of the Committee on Public Administration of the Social Science Research Council, and a session on government was devoted to papers by Professors S. Gale Lowrie of the University of Cincinnati, P. S. Sikes of Indiana University, and Mr. Arthur Funston of Earlham College. Other sessions were devoted to papers in the field of sociology, economics, and business administration. Among officers elected for the next year was Professor Harold Zink, of De Pauw University, as vice-president.

After a year of concentration of effort largely upon research, on account of a temporary diminution of budget, the Harvard Graduate School of City Planning has been reorganized as the department of regional planning, coordinate with the departments of architecture and landscape architecture in the Graduate School of Design, thus recognizing the similarity of these three fields in their relation to the planning of the physical environment of mankind for modern conditions. It is intended that the students in regional planning shall have effective access not only to instruction in engineering, which is another field of physical planning, but also to instruction in economics, government, sociology, and related subjects.

Series of addresses at the eleventh annual session of the Institute of Public Affairs at the University of Virginia in July included: "The Essential Conditions for International Security," by Professor Robert McElroy, of Oxford University; "Inter-American Relations," by Dr. George H. Cox, George Washington University; "International Organization for Collective Security," Sir Herbert Ames, former financial director of the League of Nations Secretariat; "Storm Centers in the Far East," Mr. Grover Clark, Washington, D.C.; and "Collective Security as a National Problem," New York City. Political scientists appearing on the program in other connections included Professors Charles G. Fenwick, Bryn Mawr College; Joseph R. Hayden, University of Michigan; and Walter H. C. Laves, Chicago, Ill.

Professor J. Donald Kingsley, of Antioch College, has been awarded a post-doctoral research fellowship by the Social Science Research Council for a study of the development of the British civil service. Similar awards include those to Dr. Harry S. Foster, of Ohio State University, for a study of the news, the public, and pressure groups in the determination of recent British foreign policy, and Dr. Lee S. Greene, supervisor of training in public administration, T.V.A., and University of Tennessee, for a study in Great Britain and Germany of research techniques used in regional planning. The Council's pre-doctoral field fellows for the coming year include Thomas Randolph Hall, III, University of Chicago, for a study in Moscow of the soviets of workmen and peasant deputies of the present day; Avery Leiserson, University of Chicago, for a study of state and federal agencies which have developed the most advanced procedure in dealing with representation of economic interests in administration; James F. Mathias, Jr., for a study of the administrative function of the English law courts in regard to pressing social problems; Robert A. Walker, University of Chicago, for a study of the non-legal techniques of planning administration; and Albert C. F. Westphal, Columbia University, for a study of American foreign policy. Grant-in-aid appointees include Professors Floyd H. Allport, Syracuse University, for a study of the behaviors involved in modern culture and institutions; Harold H. Sprout, Princeton University, for a study of American foreign policies; Arnold J. Zucher, New York University, for a study of the evolution of the presidential office in the United States; and Amry Vandembosch, University of Kentucky, for a study of the government and politics of the Netherlands.

Clyde Lyndon King, professor of political science at the University of Pennsylvania, passed away on June 21 at his home in Westtown, Pennsylvania. For several years he had been in failing health as the result of heart weakness. He was born in Burlington, Kansas, May 1, 1879, and

passed his boyhood on a Kansas farm. This was reflected in his lasting interest in and sympathy with farm problems, as shown in the various milk and farm commissions upon which he served. His practical knowledge of dairying, farming, and economics was of great value to the state and national governments. In 1907, he was graduated from the University of Michigan, and in 1911 he received the degree of doctor of philosophy from the University of Pennsylvania. He had been a member of the Pennsylvania faculty continuously since that time, serving as chairman of the political science department since November, 1935. Dr. King's career was remarkable in the large number of important public positions which he held. From 1916 to 1918, he was chairman of the Governors' Tri-State Milk Commission chosen by the executives of Pennsylvania, Maryland, and Delaware. In 1918 and 1919, he represented the United States Food Administration as milk commissioner for the Eastern states. He was also arbitrator of milk prices for Pennsylvania in 1919. In 1921, he served as economist to the Congressional Joint Commission of Agricultural Inquiry, comprising twelve members of Congress. President Harding appointed him a member of the Agricultural Conference in 1921 and the Unemployment Conference in 1922. In the latter year, he was a member of the advisory committee of the Commerce Department's European division, and in 1923 Gifford Pinchot, becoming governor of Pennsylvania, appointed him chairman of the Citizens' Committee on the Finances of Pennsylvania. He then served for four years as secretary and budget officer of Pennsylvania, and again in the second Pinchot administration, 1931-32, as secretary of revenue and later as chairman of the Public Service Commission. In 1933, he was appointed chairman of the dairy division of the A.A.A. in Washington. Both before and during his active career in the public service, Dr. King had been editor of the *Annals of the American Academy of Political and Social Science* (1914 to 1929). He was also secretary-treasurer of the American Political Science Association for seven years (1930 to 1936 inclusive). In the words of one of his former colleagues, "his unusual competence and his zest and drive won the admiration of every one in the Association." Dr. King was the author of several books, including *History of the Government of Denver* (1911); *Regulation of Municipal Utilities* (1913); *Trolley Freight and Philadelphia Markets* (1913); *Lower Living Costs in Cities* (1915); *The Price of Milk* (1920); *Community Civics* (1926); and *Public Finance* (1935). He will be long remembered for his success as a teacher, his outstanding ability in the public service, his untiring and unselfish devotion to the interests of our Association, his loyalty to his friends, and his high ideals.—JAMES T. YOUNG.

BOOK REVIEWS AND NOTICES

History of Political Philosophy from Plato to Burke. By THOMAS I. COOK.
(New York: Prentice-Hall, 1936. Pp. xviii, 725.)

This book deserves a more sympathetic reviewer. One who has spent years seeking—perhaps vainly—a socio-psychological and economic interpretation of political theory is not apt to become enthusiastic over another history of political philosophy. But, while such a person may approach Cook's *History of Political Philosophy* with misgivings, if he reads the volume with an open mind, he must concede that the author has made a real contribution.

In the preface, Professor Cook modestly apologizes for adding another book to the list of histories of political philosophy and explains that what he has sought to do is to provide a text more suitable to the needs of the American student. Neither the apology nor the explanation is necessary. Even a cursory survey of this work reveals that it is not just another history of political thought. The reviewer has found no text comparable to it in organization, scope, and clarity.

The work is distinctive in many respects. The style makes the study remarkably lucid and interesting. The philosophers introduced are not distorted to the point of abstraction, but appear as human beings placed in their proper historical setting. The issues involved are frequently translated into terms of contemporary political experience. Such a presentation should make political theory both understandable and attractive to the American undergraduate.

Fortunately, this method of presentation has been made without a sacrifice of scholarship. Professor Cook has not only read the classics, but he has delved into much supplementary material in order to put a philosopher into his proper niche. He has not taken unwarranted liberties with a philosopher's presentation of his case. He refrains from systematizing. The historical background is furnished; the philosopher is introduced; and then follows a résumé of his theories.

In this manner, Professor Cook treats all of the familiar figures and even introduces some new characters. We may quarrel over the space allotted to our favorites. That is a matter of taste and interest. Suffice it to say that the major philosopher is usually given a chapter while the minor prophet at least receives consideration. No one is dismissed by a mere mention of his work.

Such treatment is possible in a volume of this size. Herein lies the book's weakness as well as its strength. It is a text-book, and while it is one of the most readable commentaries on political philosophy in the English language, it has the defects of a text-book. The study covers the period from Plato to Edmund Burke. The author intimates that he is

at work on a companion volume which presumably will bring the work up to date. The present book contains more than 700 pages. Developments since Burke probably will necessitate a treatment equally voluminous. This would make the work usable only in institutions which can devote a whole year to the history of political philosophy. No matter how detached a commentary pretends to be, it is interpretative, and, if a student is required to devote so much energy to a text, when is he going to find time to con the sources?

However, in our system of mass education, a text seems to be indispensable, and Professor Cook deserves our gratitude for providing something exceptional. The work merits a wide adoption, and, thanks to its lucidity, it should attract a large number of lay readers.

WALTER THOMPSON.

Stanford University.

A History of American Political Thought from the Civil War to the World War. BY EDWARD R. LEWIS. (New York: The Macmillan Company. 1937. Pp. x, 561.)

Between 1865 and 1917, the economic life of the United States was transformed. In size, in structure, in methods, and in power, the industrial organizations of the country were so altered that by the time of the World War a retired captain of industry of the Reconstruction era who had been sojourning in the South Seas for half a century would hardly have recognized the economic society of his earlier successes. These changes, together with the enormous growth in population, resulted in political modifications and adjustments, but they were almost altogether within the framework earlier constructed. During this period, there were no important controversies about the fundamental principles of government. Likewise, there was no *Federalist*, nor even any *Disquisition on Government*. But there was much political discussion and a good deal of political theorizing. If individually none of it seems likely to win immortal fame, collectively it is worth much more searching analysis than has ever been given it. Surveys we have had, as well as two or three brilliant commentaries upon particular aspects of it, but there is no single study which successfully knits its various strands into a comprehensive and clearly conceived pattern.

In Mr. Lewis' book, the various types of political thinking of the age are divided into three groups: constitutional, systematic, and controversial. The first third of the work is more accurately to be designated as constitutional history than as a study in political thought. Under our governmental system, and in this period in particular, the material here dealt with is an essential part of any satisfactory discussion of political thought. But it is not, I think, captious to expect the author to do a great

deal more than summarize. Mr. Lewis's discussion is much better as a narrative of the effects of the Civil War amendments, especially the Fourteenth, than as an analysis of the political thought, partly implicit, partly explicit, which was a part of the developments with which he deals.

In Chapters V and VI, the writings of the systematic political philosophers and the jurists are considered. The author is more at home with the jurists who are certainly better company, than with the political philosophers. His summaries give a fair picture of the books under discussion, but I could wish for a more critical appraisal of the ponderous sterility of certain of these writings.

The last section of the book (Chapters VII-XIII) is much the best. Here we have a reasonably adequate, and at times very incisive, discussion of the various political controversies which, along with the expansion of the judicial power, give to the age its distinctive color. The Grangers, the Populists, the Progressives, and Henry George, Edward Bellamy, and their followers are the central figures. Mr. Lewis' treatment of Bryan, LaFollette, Crolly, and some of their conservative opponents, such as Sumner, is excellent. If his characterizations lack the brilliance found in the studies by Parrington, Chamberlain, and Hicks, they frequently show much more understanding of the tradition within which these men worked, a clearer appreciation of what the reformers and their opponents were attempting to achieve. On the whole, this portion of the book is well tied together, even though the author's method is primarily that of a series of separate essays on individual men. It may be unfair to criticize Mr. Lewis for not having brought out with equal clarity the relation of the writings of the controversialists to constitutional decisions and systematic treatises. At any rate, this broader and very difficult task remains undone.

BENJAMIN F. WRIGHT, JR.

Harvard University.

Political and Economic Democracy. EDITED BY MAX ASCOLI AND FRITZ LEHMANN, WITH A FOREWORD BY ALVIN JOHNSON. (New York: W. W. Norton and Company. 1937. Pp. 336.)

The twenty-one essays which make up this collection are the outgrowth of a General Seminar conducted by the Graduate Faculty of the New School for Social Research. They range over a wide field—the relations of government and economic life, problems of public opinion, political parties, representation, parliamentarism, leadership, administration, constitutionalism, nationalism, and foreign policy. The great majority are suggestive and stimulating. The only obviously bad apple in the barrel is an essay on "The Concept of Democracy," which suffers from that barren

kind of verbalizing which the late Justice Holmes used to call "churning the void to make cheese."

Specialists in the relations of government and economic life will find the first half of the volume especially rewarding. Professor Gerhard Colm's "Is Economic Planning Compatible with Democracy?" stands out as a model of incisive, carefully-reasoned exposition in a highly controversial field. Dr. Kähler, who writes on trade unions, sees hope for democracy in the passage of the labor movement from "protective and defensive" tactics to a "really creative policy" which will guarantee a steady coördination of the means of production. Professor Heimann explores the possibilities of works councils as instruments for "constitutionalizing" the position of labor in industry. Professor Frieda Wunderlich contributes a timely survey of "The Regulation of Labor Disputes" which draws largely on foreign experience and helps to dispel the superficial glamour of compulsory arbitration. Dr. Littauer reassesses the Sherman Act as an instrument to check "oppressive economic power." Professor Hans Staudinger sees public utility regulation passing from negative interference to state-fostered integration and developmental planning. Professors Karl Brandt and Horace Kallen present the case for agricultural and consumers' coöperatives as institutions for decentralizing economic and political power.

Also worthy of notice are two brilliant contributions by Professor Max Ascoli on "Political Parties" and "Government by Law," Professor Arnold Brecht's thoughtful discussion of the implications of expanding administrative functions for democratic government, the penetrating analysis of social stratification by Professor Hans Speier, and Professor Emil Lederer's reflections on the available instruments of democratic defense against movements which endanger the democratic process.

In the spate of books on the "problems" of democracy, this one should fill a unique place. Here is a distinguished company of European scholars who, as Dr. Alvin Johnson reminds us, "have experienced at personal cost what the eclipse of democracy means, for learning and for life." What lessons for democracy do they distill out of the bitter brew of their common experience?

To pose this question is to suggest a hortatory purpose which this volume for the most part avoids. For while the contributors are at one in their condemnation of dictatorship, consensus stops at the threshold of program-making, and democracy itself turns out to have different meanings for different contributors.

The paradox which haunts this book—as it haunts so much of the recent discussion of democracy—is the unresolved contradiction between political equality and economic inequality. The tension which it generates pushes some of the contributors in the direction of collectivism, while it

forces others to see in every movement toward the rapid equalization of wealth an incitement to fascism or civil war. The result is a volume which admirably mirrors the contemporary dilemma of liberalism and inevitably encounters difficulties in defining its central concepts with precision or clarity.

Yet it is possible to press a paradox too far. This symposium makes no pretense of being an essay in agreement. It remains rather a collection of independent papers, scholarly and dispassionate in tone, exploring a variety of social, political, and economic problems which trouble democratic governments today. Each contributor has focussed his attention on that facet of democracy which enlists his interest and special competence; the thread of unity which lends pattern to the whole is the common search for a *via media*, a moving equilibrium which will enable democratic political institutions to survive the strains and tensions incident to the increasing penetration of government into economic life.

MERLE FAINSD.

Harvard University.

The Role of Politics in Social Change. BY CHARLES E. MERRIAM. (New York: New York University Press. 1936. Pp. 149.)

In the six lectures comprising this book, delivered under the Stokes Foundation at New York University, Professor Merriam deals with broad aspects of the subject treated more systematically in his work on *Political Power*. The theme is the problem of relationship between political and economic factors in present-day civilization. The author pleads for an experimental and flexible readaptation of political-economic organization to meet the challenge of new needs and new conditions arising out of the rapidity and complexity of social change. It is the approach of a "liberal" who rejects alike the complacency of laissez-faire and the dogmatism of Marxian revelation. A "pure" economic order and a "pure" political order are alike chimeras. The effective trend is towards new "mixed" controls, combining economic and political methods and forms of administration. "Innumerable varieties of these hybrid types are constantly springing up, especially under modern industrial conditions, although, as already indicated, they were familiar institutions centuries ago. The London Passenger Transport Board, the Tennessee Valley Authority, the German Kohlenparliament are examples taken from different fields, but all illustrating the same principle of combining semi-governmental, semi-industrial powers in novel forms of organization" (p. 53).

There is shrewd observation and pithy expression in the development of this thesis. It has the mellow sagacity of a man who does not detach his thinking from practical affairs nor let his practical experience blunt

his thoughtfulness. Thus in his chapter on "The Philosophy of Pessimism and the Practice of Violence" he reviews extreme doctrines with both understanding and eminent sanity. Occasionally, however, the author reveals the defects of his qualities, descending to a level of sententiousness. This is particularly true of Chapter IV, which consists of a series of rather trite and disconnected remarks about conservation and change.

R. M. MACIVER.

Columbia University.

American Constitutional Law. BY CHARLES W. GERSTENBERG. (New York: Prentice-Hall, Inc. 1937. Pp. xiii, 742.)

The public to whom this volume is offered consists of those constitutional law instructors who find themselves in a great hurry. It is not a treatise, and does not hold itself out as such. The author claims only the modest intent to give us a "text and case-book for students who have relatively little time to devote to a big subject." In paging through the book, one finds an introductory chapter of fifteen pages on the development of the Constitution, two hundred sixty-five pages in nineteen more chapters devoted to a compact, textual survey of American constitutional law, and four hundred thirty-six pages taken up with opinions from approximately seventy cases.

The discussion of the background of the Constitution is inevitably sketchy, but even accepting the author's own limitations of space, he might have given some picture of the political philosophy of the founding fathers. In his eagerness to crowd in as much of the factual chronology as possible, he has forgotten the other aspect.

The text material and the cases are classified under substantially the same, and the usual, headings. Making allowance for ordinary differences in individual opinion, the cases are well chosen and well edited. The text itself is a sequence of sentence summaries of important constitutional cases. The material is organized under topical and sub-topical headings, and it has been compactly and accurately set forth. Further, the author has been careful to indicate in his notes the fact peg for each case cited. He might have increased the usefulness of his volume, however, by including a table of the cases cited in this section.

The volume is an effort to present a broad survey of the field of American constitutional law. As a summary, it is well done; but one finds no emphasis and no critical analysis. Consequently, the problem of evaluation revolves on the author's assumption that for class use it is best to give brief attention to as many constitutional issues as possible. This raises sharp conflict, of course, with the view that the more effective study of constitutional law is analysis of the process of judicial review rather than the memorization of the rules of cases on every aspect of the subject.

It may be said, it is true, that this book is the basis from which the instructor must develop this analysis and criticism, but the volume has spread so thinly over the broad field that the sections relating to the major, complicated constitutional problems are not full enough to serve as such a basis.

Only in the last paragraph of the text does the author take flight. He notes the increasing collectivist trend, cites the police power as the battle-ground, and comments on the conservatism of the Supreme Court. He shows no recognition of the significance of the federal-state division of power formula as a "collectivism" battle-ground of even greater importance now. All of which indicates merely that if the author had been analytical and critical, the reviewer would probably have disagreed with him.

EARL H. DELONG.

Northwestern University.

Public Administration in the United States. BY HARVEY WALKER. (New York: Farrar and Rinehart, Inc. 1937. Pp. x, 698.)

This work, along with a former volume entitled *Law Making in the United States*, aims at an introductory study of American government on the functional basis of "politics" and "administration." It begins with four chapters on the nature of public administration, the evolution of governmental and administrative organization, and the control of administration; then follow seven chapters on staff activities, and nine on the public services of government. By thus including some account of the manifold services of government, it covers more ground than other recent works on public administration; and as a result the treatment of staff activities is less extensive than in works which limit themselves to staff agencies and their activities. This treatment implies a broader (and to the reviewer a more satisfactory) conception of the scope of public administration than that of other recent works.

Staff activities include a long chapter on public personnel administration, four chapters on finance, a chapter on government reporting, and one on other functions. The last of these is a distinctive addition to the usual list of staff activities, with sections on legal advice, architectural and engineering services, office accommodations, and preserving public records; and the author is to be commended for recognizing these usually neglected phases of public administration. The chapters in this Part II present a reasonably adequate account within the space available.

The chapters on public services are necessarily limited to relatively brief accounts of the almost countless activities in this field. While the difficulties of dealing adequately with all these topics within the limits of a single volume may readily be conceded, the treatment is not always

well balanced, and it neglects some important aspects. In general, there is a relative over-emphasis on the activities of the national government, especially in the chapters on public welfare, education, and government in business. On the other hand, the chapter on judicial administration gives only four pages to the United States courts, with nothing on the jurisdiction of the several courts, or on the important subject of admiralty law. Nor is there any discussion of the historical development of the various public services, and of the changes in the relative importance of national, state, and local administration.

In respect to administrative organization, Mr. Walker also gives relatively little attention to local government. He is critical of state reorganizations as combining political and administrative functions in the governor, and as supplying no definite evidence of financial economy. A summary of the recommendations of the President's Committee on Administrative Management is presented without comment.

As an introduction to the field of public administration, the work serves a useful purpose, presenting a survey of the manifold services now performed, with less technical detail of the specialized staff agencies.

JOHN A. FAIRLIE.

University of Illinois.

The Story of the Supreme Court. BY ERNEST SUTHERLAND BATES. (Indianapolis and New York: The Bobbs-Merrill Company. 1936. Pp. 377.)

The Ultimate Power. BY MORRIS L. ERNST. (Garden City: Doubleday, Doran and Company. 1937. Pp. xv, 344.)

These two books are alike in that both were written for the general reader and from the liberal point of view. Mr. Bates carries his story of the Supreme Court through the 1935-36 term. His facts are naturally not the products of his own original research, and he makes no pretense that they are. He uses, with due credit, Warren, Myers, Boudin, Corwin, and Swisher, and, indeed, a very considerable bibliography. He assumes the validity of the liberal thesis, and interprets the facts accordingly. In so doing, he makes some rather sweeping historical judgments, as when, to give a single example, he refers to the Dred Scott case as "a decision which precipitated the Civil War" (p. 158). His book is a very readable and in many ways useful short story of the Court. Whether it is history may depend upon one's definition of the term. The net result is a pretty thorough job of debunking, although it is not done offensively—unless it is offensive to lay one's hands upon the Ark of the Covenant. The reviewer's prejudices are enough like those of Mr. Bates for him to enjoy this aspect of his volume.

Mr. Ernst's "ultimate power" is, of course, the power of judicial

review. There are twenty-seven short chapters divided into ten parts: We Break from England; We Form a Nation; The Document; The Three Departments and the Right to Change; The Judges Claim the Veto Power; From Pine Knot to Candle to Whale Oil to Gas to Electricity; Three Leeways; The Court Vetoes Congress; The Seventy-six Economic Gods of 150 Years; and How to Curb the Judges.

The general reader should beware of some of Mr. Ernst's sweeping statements. From his book the specialist in this field will learn nothing new. The author uses the device of breaking into his story with gossip paragraphs in italics.

What does Mr. Ernst suggest? The proposal to add new judges to the Court he calls one of "cringing desperation. It might bring temporary relief but certainly has no enduring benefits . . . Jefferson's and Madison's appointees did not sustain their acts but joined with Marshall. Jackson's appointees opposed his policies soon after appointment. Then again, who would be added? . . . These perversities of selection should give the proponents of this approach considerable pause" (pp. 316-317). As for "constitutional amendment by change of vocabulary," the author says that "the judges will again whittle away any new words we may select" (pp. 317, 320). He prefers to allow Congress to override any decision of the Court (p. 322), at any rate by a two-thirds vote (p. 323).

JAMES HART.

University of Virginia.

Government in Rural America. BY LANE W. LANCASTER. (New York: D. Van Nostrand Company, Inc. 1937. Pp. xi, 416.)

This book is not, as the reader might anticipate, a text-book on rural local government. It is instead a study of rural influences upon government. Professor Lancaster is far more interested in what rural America thinks, why it thinks as it does, and how it responds to political and governmental stimuli, than in the forms and functions of government peculiar to any particular setting. In his study, he focuses attention upon the social, economic, and psychological factors peculiar to our agricultural regions, demonstrates the extent to which these factors determine the character of local institutions, and shows, in turn, the influence of local politics and administration upon government at all levels. The descriptive and analytical parts of the study support the thesis that these "traditional rural modes of thought" impede political development and retard administrative reforms. However, the author does not add (as he most certainly should have) that this rustic political philosophy which professes an immutable faith in sorcery, hocus-pocus, and witch-doctors is not confined to our agricultural regions.

Modern problems of government are attributed by Professor Lancaster

to our inability to absorb the lag created by the rapidly changing social and economic order. The agricultural element of our population resists change; consequently, these maladjustments are particularly evident in the rural areas. Local government remains "the dark continent of American politics" primarily because rural America thrives upon prejudice, cherishes "the amateur tradition," and worships "the homespun virtue of 'common sense.'" Whether or not the analysis is always sound, whether or not the author is entirely fair in his portrayals of rural characteristics, are matters to be judged by the individual reader. The reviewer is at times puzzled to know whether Professor Lancaster is criticizing that which he cannot understand, or is merely impatient with people whom he knows, perhaps, all too well.

The author is little disturbed by the multiplicity of areas or the superficial differences in forms and functions. It matters not that the local area be the county, the town, the township, or the school district, the psychology is the same and, consequently, the basic problems in local government are common to all sections of rural America. Furthermore, the rural areas present no unique problems in government and administration. City and rural problems become identical in their essential nature. Proceeding upon this hypothesis, the author emphasizes the rural influence but presents his subject as part and parcel of the general problem of government and administration in the United States. In the first five chapters, the author defines the issue, presents its social and economic background, and demonstrates the rural attitude; he devotes the remaining chapters to an analysis of the administrative problems involved in the management of public affairs at the local level.

The book is carefully and adequately documented. The material is well organized and thoughtfully arranged. However, the author quotes so extensively from various sources that the reader will at times experience difficulty in determining the author's personal conclusions and convictions. Professor Lancaster's contribution lies in his approach, wherein he has properly emphasized the stereotypes which have so long dominated rural political thought.

HAROLD M. CORR.

University of Michigan.

The Recovery Problem in the United States. BY MEMBERS OF THE BROOKINGS INSTITUTION STAFF. (Washington, D. C.: The Brookings Institution. 1936. Pp. xiv, 709.)

L'Expérience Roosevelt. BY LOUIS R. FRANCK (Paris: F. Alcan. 1937. Pp. 386.)

The Brookings studies have established for themselves a unique place in applied social science. They offer one of the few broad comprehensive

sources of unbiased data on current government policies. The present survey begins with a brief memorandum on maladjustments arising out of the War which have led all governments to intervene extensively in economic affairs. Most of the earlier laws were of a defensive nature, aimed to stop the "downward spiral of deflation." Others were offensive in purpose, intended to prime the pump and start the economy on the upward curve. Some programs relied chiefly on fiscal and monetary changes, others upon starting up activity in factory and farm. The highly condensed summary of these recovery measures in fourteen selected countries, as given in Appendix B, is an invaluable feature of the book.

Although the present recovery movement has been under way for several years, the improvement thus far reached has not been sufficient to absorb unemployment nor to restore former living standards. The authors see certain favorable and certain unfavorable influences. Favorable are: (1) the abundance of funds at low rates of interest; (2) the reduction in the burden of private debt; (3) the satisfactory rise of wages as compared with prices (until recently); (4) the improved balance between agriculture and industry; (5) the disappearance of uncertainty on monetary policy (the book was written before the revival of doubt concerning the gold price); (6) commercial policy is slowly beginning to favor expansion of foreign trade (this likewise is subject to modification); (7) the stimulus to production given by accumulated deficiencies of goods; (8) the lessened confusion, doubt, and uncertainty as to government regulative policies (here again a favorable factor has disappeared). Unfavorable are: (1) major difficulty of setting up fiscal stability; (2) danger of inflation in credit and prices; (3) labor policies, especially forced reduction of working hours and lowering of production; (4) danger of inadequately prepared, hasty legislation in the industrial field; (5) the highly unstable international situation.

How far have we recovered? Summing up the surface indications of recovery, the authors find that in 1932 the annual output of goods and services was thirty-five per cent below that of 1929, and that by the middle of 1936 it was only thirteen per cent below. But this, they hold, is not an accurate picture. "When growth of population and normal progress are taken into account, output in 1936 appears to be 25-30 per cent below that indicated by the 1929 level." In a later address interpreting the survey, Dr. Moulton is reported as saying that in order to restore a 1929 living standard, with the present population, we must increase productivity over and above the rate prevailing in the middle of 1936 by the following percentages: housing, 208; industrial, 60; public utilities, 70; steam railroads, 67; passenger autos, 15; and other consumer goods, 33.

These figures take into consideration the restricted rate of production of the last seven years, the continued growth of population, the additional

replacement needs, etc. Taking the market value of goods and services produced in 1936 at \$60,000,000,000, it is estimated that if divided equally this national income would have amounted to about \$470 per person, or \$1,900 per family. To rise from this pitifully low standard, our first and greatest need is a great increase in production. Our minimum task, then, is (1) to make good the deterioration of plant and equipment sustained during the depression, (2) to increase *productive* capital in line with the growth of population, and (3) to expand the output of consumption goods in accordance with this increased population. The full-time employment of from eight to nine million additional workers would be required in this task, on the basis of present working hours.

Early in the survey, the authors come to grips with fundamental questions of policy in any American recovery program. Is recovery to be reached by restriction of output and reduction of hours? Two of the most enlightening chapters of the book, "Production and Productivity" and "Wage and Hour Policies," are devoted to answering this question. It is a remarkable fact that no high executive officer nor any committee of Congress has presented to the public any comprehensive data on these problems. Yet complete programs dealing with these points have been offered to Congress for enactment into law.

The Brookings survey brings us squarely face to face with basic reasoning on this subject. What, it asks, would be the effect of adopting the demand for a thirty-hour week or any other of the drastic reductions in working time? In substance, whether these demands come from presidential or congressional sources, they all rest upon the same thought, viz., that hours should be systematically reduced in proportion to the increase in productive efficiency. It is, in short, a "spread the work" program which is in turn based on the ancient "wage fund" theory.

No living economist today harbors the fixed wage fund idea save as a museum piece. If, say the authors, in the period from 1920 to 1929, hours had been reduced in proportion to growing efficiency, "*all* of the gains resulting from the increase in production efficiency would have had to be realized in the form of greater leisure—none in the form of higher standards of living." And if such a plan were adopted now in order to absorb unemployment, the volume of national production would be frozen at or near the present low level, that is, \$470 per person. And even if our wages were actually increased by reducing working hours to thirty or forty per week, could we buy with the added monthly income more goods than were produced? Or would we have to pay out the increased income in higher prices for the same goods? How can we supply the undoubted basic need for *more goods* by spreading among more people the present number of available jobs and working hours?

Contrasting with this policy, the authors offer their own program:

(1) a balanced federal budget; (2) some fixed price for gold, with international coöperation to stabilize foreign exchanges; (3) extension of reciprocal trade agreements; (4) emphasis upon price reduction to improve the economic position of all groups; (5) maintenance of prevailing hours of labor; (6) elimination of industrial policies, both public and private, tending to restrict output or to prevent increased productivity; and (7) shifting of emphasis in farm policy from restricted output and higher prices to abundant supply of raw materials and food-stuffs for expanding markets.

Of quite unusual value are eight appendices dealing with world trends and the sources of information thereon, recovery laws in fourteen foreign countries, employment, wage and production data, durable goods data, prices, public finances, private debts, and international trade and finance. Although the work throughout is unbiased and non-partisan in tone, the politician in both executive and legislative branches will find it full of inspiring materials and reasoning. If its findings are studied widely with an open mind, we may even look forward to an earlier transition from emotional slogans to measures of more enduring value.

Monsieur Franck's book interprets to the French reader the essential features of the New Deal program in its first stage, up to about the end of 1935. There is a great wealth of material on N.R.A. and the codes and an intelligent attempt to evaluate the economic and social results. The author rates these results low, while praising the spirit and effort which they represented. There is a good general perspective and an appreciation of the forces, distinctively American, which have produced the New Deal itself and the vagaries of Dr. Townsend, Father Coughlin, and Huey Long. There is also some effort to appraise the economic literature produced by the depression, and the best independent sources of information have been well worked up. The author, however, has not been equally successful in his attempt to give an impartial picture of the origin and legislative history of some of the principal New Deal laws. It is natural that a Frenchman writing of American events should judge many of them from the viewpoint of recent French developments. Perhaps for this very reason the book, while offering little new to the American public, will prove informative and helpful to the French reader.

JAMES T. YOUNG.

University of Pennsylvania.

War Memoirs of David Lloyd George. (Boston: Little, Brown and Company. 1936-37. Vol. V, pp. 464; Vol. VI, pp. xvi, 406.)

Through Volumes V and VI of his *War Memoirs*, Mr. Lloyd George continues his caustic castigation of the Allied military leaders for their needless, not to say stupid, incompetent, and criminal, wastage of the

lives of tens of thousands of their best troops in hopeless attacks on impregnable defenses—attacks which resulted in no strategic advantage and which, Mr. Lloyd George points out, were opposed by men of ordinary common sense (but no military training) as foredoomed to failure. It is not merely the knowledge of hindsight which justifies his excoriating comments. In the Somme campaign, for example, over 500,000 of England's best youth were tossed into the maws of death *after* it had become clear to the civilian leaders that it was impossible to break through the German lines in that region. The British losses were twice as great as those inflicted on the enemy, and nothing was gained.

In a chapter of his last volume (Chap. X, "Some Reflections on the Functions of Governments and Soldiers Respectively in a War"), Mr. Lloyd George tells how he urged the cessation of this useless slaughter, and considers whether he should have resigned when his advice was rejected. He consoles himself with the bitter reflection that, after all, the "fighting of a battle is mainly a decision for the generals." But the generals available had had no actual experience with the realities of a war like that they were attempting to wage in France. A life-time in barracks or staff colleges studying the tactics and strategy of past wars was no preparation for the problems of the World War. The "best" military brains of the English army, the author points out, were mediocre at best; and the military mind appeared totally incapable of acquiring the flexibility necessary to forget cavalry tactics learned in the Boer War and in staff colleges, let alone the insight and break with tradition necessary to wage successful war in the slime of Flanders. Moreover, "seniority and society were the dominant factors in army promotion. Deportment (i.e., obedience) counted a good deal. Brains came a bad fourth." The ablest brains were never permitted either to climb to the top or to reach the attention of government officials.

No one not prejudiced from the outset can read these two volumes without gaining an indelible impression of the stupidity and incompetence of the military so-called mind in matters of strategy. Incompetent to plan campaigns which called for intelligence, mental flexibility, and a large degree of common sense, the true rôle of the generals appears in their execution of later campaigns planned by men less atrophied by tradition.

The outstanding exception noted by Lloyd George is the case of Marshal Foch. Here again, the civilians, Lloyd George and Clemenceau, encountered the bitter and unintelligent opposition of Haig and Pétain to the creation of a unified Allied command—particularly if headed by Foch, whose genius in their chosen field they quite failed to appreciate.

Mr. Lloyd George's side of his struggle with Pershing over the question of whether American troops should be used to fill out depleted British and French regiments or should be kept in reserve until a unified Ameri-

can army might be organized is told with some bitterness; but his case is not as convincing as the briefs that he prepares against Haig or in favor of a unified Allied command. In a most interesting chapter in Volume V, Lloyd George tells of his relations with the grizzled Clemenceau. Other chapters analyze the campaigns of 1917-18, the military and political implications of the revolution in Russia, the breakup of Germany's allies, and the coming of the Armistice. The pen of Mr. Lloyd George is always dipped in color, sometimes in venom, and is occasionally repetitious. One welcomes the hint in his last volume that he may yet find time to write a series of memoirs on the making of the peace treaties.

HERBERT W. BRIGGS.

Cornell University.

The Administration of Justice in Great Britain. BY CALEB PERRY PATTERSON. (Austin, Texas: The University of Texas Press. 1936. Pp. viii, 326.)

Professor Patterson states in his preface that "it is the purpose of this study to show the evolution of the judicial system of Great Britain, its organization, jurisdiction, procedure, and administration, as well as the organization of the English bar and police system, together with their relations to the judicial system in the administration of justice," and that the book "is intended to be suggestive in the further modification and adaptation of the jurisprudence of the American state to the needs of a highly organized type of society." This is perhaps too broad a statement of objectives for a study of some three hundred pages of the type undertaken by the author. He has nevertheless brought together a considerable body of information which will serve as a useful guide for the layman, or for the beginning student of political science, who wishes to secure a bird's-eye view of the English courts and judicial methods.

Among the principal topics of discussion are the development of local courts, the evolution of the royal courts, defects of the old system, the hundred years' war for legal reform, reform prior to 1873, reorganization in 1873-75, the magistrates' courts, the county courts, the High Court of Justice, courts of appeal, the administrative system, the jury system, the legal profession, and the police system. Some suggestive criticisms are outlined in a brief but interesting concluding chapter.

Mr. Patterson's treatment of the wide range of topics above indicated is, needless to say, neither exhaustive nor definitive. His chapters dealing with the courts, while informative in that they contain much historical and statutory material relating to such matters as organization and structure, jurisdictional limits, judicial powers and functions, and methods of procedure, would have been greatly enhanced in value had the descriptive material been supplemented with a more intimate and

detailed study of the customary and unwritten processes of administration which are so important to an understanding of English justice. It is unfortunate that Mr. Albert Lieck's illuminating article, "Abolition of the Grand Jury in England,"¹ was not brought to the author's attention before he prepared his discussion of that topic (pp. 201-204).

Mr. Patterson's study is clearly written and contains an excellent series of charts and a well-selected bibliography. It can scarcely be called a "popular" or "controversial" book, to be read as a matter of general interest; but for those who wish a brief survey of some of the salient features of the English judicial process, it is well worth reading.

PENDLETON HOWARD.

College of Law, University of Idaho.

The New Soviet Constitution; A Study in Socialist Democracy. BY ANNA LOUISE STRONG. (New York: Henry Holt and Company. 1937. Pp. 169.)

In her readable book, *The New Soviet Constitution*, Anna Louise Strong has contributed an enthusiastic evaluation of the new Soviet fundamental law. The outstanding feature of the new constitution is the creation of a directly elected legislature, which is no doubt an improvement over the old complicated system of indirect elections. The present constitution also grants suffrage to all citizens, except the mentally deficient and persons condemned by law. There are a great many provisions such as the right to work, guarantee of social insurance, adequate rest periods, etc., which are not really innovations, as they are to be found in the Soviet Labor Code. After reading Miss Strong's book, one is left with the impression that the Soviet Union is casting off the uncompromising harshness of revolutionary fanaticism and adopting a more tolerant, one might say more civilized, attitude toward political and social life.

The new constitution provides for freedom of speech, press, assembly, and demonstration—pleasant words in this world of dictatorships. But the proof of the pudding is in the eating. Constitutional provisions can be taken seriously only when certain fundamental rights of man are respected by the government. The Weimar Constitution is still theoretically in force in Germany, but it has been reinterpreted by decrees in a way that eliminates every vestige of freedom. Miss Strong possesses an infectious enthusiasm, but the recent news from the Soviet Union prompts one to hesitate in joining her in the acclaim of the new Soviet Democracy. The reviewer is very much afraid that slavish obedience to the party "line" will continue to be the measure of loyalty not only in politics and economics but in all phases of cultural life.

When it comes to dealing with racial and national minorities, the

¹ 25 *Journal of Criminal Law and Criminology*, 623 (1934).

present Soviet régime is infinitely superior to that prevailing in most European countries. Contrasting with the savage treatment of minorities in Germany and Poland, and in pre-Bolshevik Russia, the Soviet constitution provides for equal rights for all citizens irrespective of their nationality and race. And these rights are made irrevocable. All privileges and disabilities because of race and the "propagation of racial and national exclusiveness or hatred and contempt shall be punished by law." That these are not empty words, the Soviet government has proved in practice for twenty years.

It is unfortunate that the new constitution was promulgated at a time when the state of affairs in Europe inspires the Soviet Union with mortal fear of invasion; for fear is not conducive to democratic freedom. It can only be hoped that at some future time, after war madness passes, the people of the Union will be enabled to enjoy some of the liberties granted by the new constitution.

Miss Strong is to be congratulated on her excellent translation of the new constitution, and on the inclusion of an appendix indicating the chief changes from previous Soviet constitutions.

BERTRAM W. MAXWELL.

Washburn College.

Grundlagen und Methoden Internationalen Revision. BY WERNER GRAMSCH. (Stuttgart and Berlin: Kommissionsverlag Deutsche Verlags-Anstalt. 1937. Pp. 181.)

As is entirely justifiable and highly to be desired, the author of the present monograph conceives of revision and treats of the subject not merely as a revamping of certain texts, but as a reconsideration of international legal and factual arrangements in general. As a result, his treatment of the problem has much more to offer by way of general legal and social theory than, for instance, Kunz's monumental but limited study of a few years ago.

Not that Dr. Gramsch fails to get down to details. After a theoretical introduction on the concepts of peaceful change and revision, he proceeds to a discussion of the bases of revision in ethical principle and in conventional and customary international law. He supplements this with some consideration of more special bases for revision which he finds in certain principles of international organization, such as the doctrines of flexibility and reasonableness and others still more philosophical in character. The latter half of the book is taken up with a study of methods and procedure: revision of treaties on the basis of inapplicability, after some decision to this effect by the parties or a third party or agency, including the League or its organs, and revision of international arrangements not regulated by treaty. Seven pages are given in conclusion to a consideration of the

positive regulation, so far as it exists, of the bases and methods of international revision. A somewhat uneven bibliography follows (no mention is made of Kunz's main work or of the fragmentary but useful preliminary study published by the Geneva Research Center).

As implied at the beginning, the reviewer regards this contribution to one of the two main problems of international organization as valuable and stimulating. It carries the discussion over from a too close preoccupation with texts and details of procedure to the field of legal theory, and even ethics, sociology, and pure philosophy, and this is a salutary corrective. On the other hand, the treatment here seems to be somewhat too far in the direction of pure ideology and theory, thus appearing too facile and too optimistic. What is needed, however, is not merely a cross between Kunz and Gramsch. What is needed now is a study of forces making for and against the application of the Gramscian ideologies to the textual problems, examined by Kunz, of the relation between security and revision—the whole *realpolitik* of the problem.

PITMAN B. POTTER.

*Institute of International Studies,
Geneva, Switzerland.*

International Politics. BY FREDERICK L. SCHUMAN. Second Edition. (New York and London: McGraw-Hill Book Company, Inc. 1937. Pp. xxi, 789.)

When this book appeared in its first edition four years ago, it impressed this reviewer as embodying the most brilliant and challenging interpretation of modern world politics of any volume of its scope and design. It was, however, even for a text-book, long and diffuse, partly because of the inclusion of omissible historical material, and partly because its author's felicity of expression (for which, among political scientists, he should not be condemned) made writing too attractive. This revised edition has lost none of its original power and acuteness, and it has gained through compression. Part I has happily been reduced by one-third, and page after page has been slashed from the remainder. In spite of its total abbreviation by one hundred pages, it contains much additional material on international events from its first publication down to March, 1937. The revision stands as an accomplishment of great merit.

Unlike most works serviceable as text-books in the field, Professor Schuman's treatise achieves unity and vigor through a driving consistency of interpretation. He starts with, and sustains throughout, a basic proposition: the forces of conflict in international politics are "more significant" than those of coöperation. Despite the invaluable service that he has rendered in demolishing the opposite assumption, which had been long in vogue, and despite the compelling quality of his thesis, this re-

viewer feels that he is the victim of his own recoil. Experience suggests that co-action is a phenomenon not less significant than contra-action. The two represent logical poles between which all concrete state action lies. The basis of coöperation need not be world community, as Professor Schuman seems to imply, but may be, in one sphere, less-than-world community, and in another, reciprocity and compromise. "Significant" evidence of co-working behavior exists and cannot be ignored in analysis and prediction.

Professor Schuman's gloomy, and even fearful, outlook for the future is embodied in his premise. If the forces of conflict are accepted as irresistibly dominant, war with certainty follows. In his revised edition, he has cast caution to the winds and set the date as 1938 (referring to Germany: p. 423) or 1940 (respecting Italy: p. 430). A single chance for peace remains—the formation of an effective united front of all non-Fascist powers against any aggressor—but this possibility he dismisses as an illusion (pp. 643–644). Further, he intones the funereal chant for the Western state system. The dilemma is inescapable. A long descending twilight ends in political and economic disintegration.

There is no flaw in his argumentation: it is rigorous and brilliantly sustained. It may, however, rest on a premise embodying a half-truth. Time will give the answer. In any event, few writers on international politics perceive that half-truth (if such it be) so clearly, and none defend it with such adroit manipulation of evidence, or with such magnificent verbal embellishment.

WILLIAM P. MADDOX.

Princeton University.

Analysis of the Problem of War. BY CLYDE EAGLETON. (New York: The Ronald Press Company. 1937. Pp. 132.)

Viewed Without Alarm: Europe Today. BY WALTER MILLIS. (Boston: Houghton Mifflin Company. 1937. Pp. 79.)

The late Justice Holmes once observed that the vindication of the obvious is sometimes more important than the elucidation of the obscure. This is peculiarly the case with the peace movement. In an epoch calling imperatively for clear thinking and decisive action, seekers after peace are everywhere unable to see the forest because of the trees. By way of clarifying their vision, Professor Eagleton, of New York University, has, with evident relish, written a simple little book which states the ABC's of the peace problem in simple language. It is apparently his hope that members of women's clubs, peace organizations, anti-war strike committees, and the like will be inveigled into perusing his pages by virtue of their engaging simplicity and charm. In view of the stubborn persistence, even in more learned circles, of numerous illusions regarding peace and

war, it is to be hoped that this book will circulate even more widely and come to the attention of politicians and political scientists.

Professor Eagleton has written an admirable primer of the war problem. There is not much "analysis" here, as social scientists understand that term, and no effort at subtlety or profundity. But there is a beautifully lucid and cogent exposure of many current misconceptions and an eloquent and convincing plea for international organization and collective security as the only road to salvation. The author examines in turn the futility of disarmament, the irrelevant witch-hunting of the muck-rakers, the ambiguity of the pleas for "changing human nature" by education, the heroic martyr-complex of the war-resisters, the naïveté of the outlawry-of-war advocates, and the folly of so-called "neutrality." While he does not deal with war in terms of *Realpolitik*, he perceives that it can be exorcised, if at all, only by a collective system. Were ten million Americans to read these pages (instead of the few thousands who will read them), much solemn and long-faced nonsense regarding the problem would be dispensed with.

Walter Millis, on the other hand, can only breed further confusion among his readers, despite the fact (or perhaps because of the fact) that he is a past-master of the art of writing "best-sellers." Last autumn he took a trip abroad. He has seen fit to record a few rambling impressions in a feeble little volume which is eminently readable, but is relevant to nothing in particular. Mr. Millis has discovered that in Europe there are frontiers and passports and customs; that Russia is "very different"; and that German army manoeuvres are somewhat confusing to the layman. For the rest, he desires to be reassuring. There will not be any war, because "a war can hardly be planned satisfactorily without knowing what the British army, the British air force, and the British fleet will do. And nobody—least of all the British—knows what they will do. I think it is a great aid to peace." Critical readers, however, will merely think that Mr. Millis is not overly bright.

FREDERICK L. SCHUMAN.

Williams College.

Zero Hour: Policies of the Powers. BY RICHARD FREUND. (New York: Oxford University Press. 1937. Pp. vi, 256, with two maps.)

In an hour of increasing crisis comes a presentation of the world scene as viewed by an Anglo-Austrian journalist with an unbiased outlook and wide sympathies. Beginning with Germany and the Baltic and girdling the globe chiefly along "the volcanic belt from Central Europe through the Mediterranean to the Far East," Mr. Freund undertakes a survey of the "driving forces" (ranging from racial and religious mysticism to the quest for trade) which impel, and condition, the behavior of different na-

tions. Obsessed by no *a priori* ideological limitations, recognizing, but not canonizing, power politics, the author treats quite objectively and dispassionately the policies of the major powers, not *per se* but always in their intricate inter-relationships. Three chapters dealing with Germany give evidence of balance, frequently in the presence of emotionally irritating facts. Trenchantly, panoramically, Mr. Freund writes of the political conditions in the Baltic, the Danubian basin, and the Mediterranean, neatly combining geo-political and strategic aspects which ordinarily elude journalists with psychological understanding, political insight, and a wealth of economic fact. The reviewer knows of no comparably incisive account of German economic penetration of the Balkans while sanctions were in force.

An unusual feature of the volume is its salient treatment of political and strategic conditions in the Near and Middle East, recognizing the changes in the relationships of power which Arab and Indian nationalism have effected and fully tracing their international implications. This is revealing and refreshing, for somehow to American readers European international relations virtually taper off into nothingness east of Suez, while Far Eastern relationships assume no significance west of Singapore. To get the globe actually girdled, including the U.S.S.R. in its European-Asiatic significance, is no mean achievement. The Far Eastern situation is clearly depicted in four pungent chapters shot through with realities. Given existing conditions, Britain faces two, possibly three, "inevitable" wars—one with Italy (p. 126), another with Japan (167), Germany being the possible third. In the light of all this, a return to League-centered policies, together with devolution of naval control to the Dominions, offers England the surest way forward.

The place at which Mr. Freund is least successful is in dealing with "America in Dry Dock," a chapter too terse to be adequate, and suffering in consequence, from hasty generalizations and occasional factual error. The author's quotation from the Stimson note (p. 200) appears in the Argentine Anti-War Pact, while his statements on American neutrality policy in the Ethiopian war are at times far from accurate. By and large, however, he has done an excellent job in picturing the dynamic factors of domestic and foreign policy that go to make up this all too precariously situated world. *Zero Hour* is provocative, stimulating, worth while.

MALBONE W. GRAHAM.

University of California at Los Angeles.

The Shanghai Problem. BY WILLIAM CRANE JOHNSTONE, JR. (Stanford University Press. 1937. pp. xi, 326.)

The status of Shanghai remains a major issue in Far Eastern politics, overshadowed as it may be at present by momentous events in the course

of Japanese aggression north of the Yellow River. In this up-to-date account of the evolution of municipal policy and international diplomacy in Shanghai, Professor Johnstone has traced the historical development of the anomalous political régime of that city and analyzed its present problems in their international setting.

Two factors—location and security—have made this port at the mouth of the Yangtse the commercial and financial center of modern China. For the first, the foreigners are not responsible; but for the second, they can claim the credit, or could until the Japanese devastated Hangkow in 1932. What does security mean? For the International Settlement and the French Concession at Shanghai, as Professor Johnstone shows, it has meant freedom from civil wars, immunity from Chinese control and taxation, and also governing power in the hands of a propertied class sufficient to resist the latent demands of a growing proletariat for factory legislation and costly municipal services. How such a political régime evolved is traced by the author in a series of readable chapters on the development of the international, French, and Chinese municipalities. Beginning with the indefinite legal basis laid down in the treaties of 1842–44, he describes the successive steps by which the foreign diplomats and local communities excluded Chinese authority from the foreign areas and built up their own independent agencies of government. In its essentials, the story has been told before; but it is here set forth with clarity and precision, and with an attention to the rôle of Americans in the founding of the International Settlement which has hitherto been lacking.

The latter half of the book is devoted to Shanghai's present-day problems, with special emphasis on the international régime which controls the key foreign area. In straightforward fashion, the author sketches the court reforms restoring Chinese judicial authority over Chinese nationals and foreigners lacking extraterritorial privileges, the admission of Chinese representatives to the municipal councils, the cautious experiments in public education, the unsettled controversies over factory control and the extra-settlement road areas, and the crisis precipitated by the Japanese invasion in 1932. The latter was the prelude to a growing demand by the Japanese for a larger voice in the affairs of the International Settlement. This demand has now turned the future of Shanghai into a triangular struggle between China, Japan, and the other powers—a struggle which reflects the wider conflict spread across the map of China, and, in the opinion of the author, hinges largely on its outcome.

Professor Johnstone states that his purpose is to view Shanghai primarily from the angle of Sino-foreign relations, and it is of course unfair to criticize this study for what it does not pretend to be. One may regret, however, that he did not find it possible within the limits of his study to analyze at greater length the character of municipal government

in Shanghai in terms of class and group interests and to reveal more concretely the relation between municipal problems and policies, on the one hand, and, on the other, the changing social structure of the community, especially as regards its predominant Chinese population with its rising bankers and industrialists, its growing proletariat, and its changing social attitudes. He does characterize the régimes of the International Settlement and French Concession as run by and for foreign propertied interests, with minor modifications in recent years; but the task still remains to show fully in political terms the cross-currents of interests and ideas which make the political problem of Shanghai so much more than a frontal conflict between two, or even three, homogeneous and static national groupings.

To pursue this a little farther, one feels that the study might also have gained from greater attention to China outside of Shanghai, both traditional China and China as affected by the changes of recent years. Perhaps the problems of Shanghai would stand forth more clearly—for example, the conflict over “judicial process”—and certainly the significance of Shanghai for China would emerge in larger terms. For the important thing about Shanghai, in the long run, is the fact that through it has been funnelled a stream of Western influences revolutionizing the economic and social structure of an immense hinterland, and that within it has been created a new set of social ideals and class relationships which will exert a profound influence on the future of Shanghai and of the whole country. With no disparagement to Professor Johnstone’s able study, one may suggest that this is the real Shanghai problem.

WILLIAM W. LOCKWOOD, JR.

Institute of Pacific Relations.

The United States and the Republic of Panama. BY WILLIAM D. MCCAIN.
(Durham, North Carolina: Duke University Press. 1937. Pp. xv, 278.)

Dr. McCain presents in this volume the results of one of the first systematic and scientific efforts to survey Panamanian-United States relations since the establishment of the isthmian republic’s independence in 1903. The results are reasonably satisfactory, but one comes off from a reading of the book with a feeling of regret that the author viewed the trees to so great exclusion of the woods.

In forgivably sketchy fashion, an introductory chapter traces developments during the “four tumultuous centuries” preceding independence. Successive chapters then consider the establishment of the Taft *modus operandi* of 1904, the demobilization of the *opéra bouffe* Panamanian army, problems dealing with maintenance of public order, United States investments, the Costa Rican boundary dispute, expropriation of lands

for canal defense, transportation and communication, Panama's part in the World War, the unratified treaty of 1926, and "Panama and the New Deal."

Instances of American private investments are listed in unnecessarily great detail. The author commits the understandable fault of proportioning the fullness of his treatment of various topics to the volume of available source materials; thus the abbreviated discussion of certain topics as they developed after the summer of 1906 reveals unconsciously that the opened State Department archives stop with August of that year. Treatment of subject-matter is disproportionate from another angle in that one or two developments are inexcusably slighted. The Root-Cortés-Arosemena agreements and the Thompson-Urrutia treaty get a total of only five lines (p. 244), although both were important chapters in the efforts to straighten out the tangled skein of relations among the United States, Panama, and Colombia. In the concluding pages, the whole problem of relations between Panama and the United States should be viewed in perspective in greater detail than has been done.

A few detailed or mechanical points are subject to criticism. One would prefer the footnotes at the bottom of appropriate pages instead of at the ends of chapters. President Roosevelt did not sign the "Spooner bill" (p. 12), but rather the *Hepburn* bill with the *Spooner amendment*. No useful point is served by the occasional retention of words or phrases in Spanish when their translation would be as simple—for example, *dominación* (p. 114), *convención* (p. 124), *buenos oficios* (p. 129), and *Corte Internacional de Justicia de la Liga de Naciones* (p. 211). Governments do not cancel the exequaturs of diplomatic agents (p. 194), but only of consuls.

The bibliography shows good and conscientious use of the conventional materials, although several secondary items of importance are omitted. One looks in vain for Arias, *The Panama Canal*; Bishop, *The Panama Gateway*; Miller, *The Isthmian Highway*; Smith, *The Panama Canal*; Williams, *Anglo-American Isthmian Diplomacy*; Hill, *Roosevelt and the Caribbean*; Jones, *The Caribbean Since 1900*; and Antonio José Uribe, *Colombia y los Estados Unidos de América*. Admiral Chester's "Diplomacy of the Quarter Deck," in the *American Journal of International Law*, would also have added to the background.

Despite the faults of the book, which reveal a certain amateurishness, the study is a useful one, and, as Professor Rippey says in his foreword, it follows "the main threads of Panamanian-American relations . . . in a definitive manner." The callous treatment by the United States of the nation whose birth she sponsored is, on the whole, well described.

RUSSELL H. FITZGIBBON.

University of California at Los Angeles.

BRIEFER NOTICES

AMERICAN GOVERNMENT AND POLITICS

Robert Phillips, of Purdue University, has produced *American Government and Its Problems* (Houghton Mifflin Co., pp. 813), designed as a text for colleges and "the reading public." Seeking a satisfactory compromise between functional and structural approaches, all areas of government are treated topically, but with heavy stress upon the rôle of national authority in the federal system. More space is accorded the description of governmental mechanisms than of their functioning. Against an historical background, the novel features of the Roosevelt régime are carefully presented, with a too obvious effort to remain uncommitted on controversial items. Good and bad arguments are marshalled pro and con, leaving the reader none the wiser. A unique feature of this text is its literary style. When involved details impede lucidity of expression, they are omitted. A plethora of classical allusions, witticisms, and humorous anecdotes enliven the context even when they fail to illuminate the point. Careful study of this book will probably expand the student's vocabulary, for the author is fond of a wide variety of words, occasionally employing them in unusual meanings. The general effect is to produce a lively, fascinating narrative, uncommon in elementary text-books. Entertaining description, however, may leave the reader with much interesting information but with little understanding. True of many texts on American government, one learns little of the dynamics of politics, of the social pressures, sectional interests, organized minorities, personal ambitions, and class antagonisms which determine its destinies. It is regrettable that this book, definitely superior to its predecessors in many respects, should be equally lacking in this regard.—O. R. ALTMAN.

Dwight L. Dumond's text-book history of the United States in the twentieth century, entitled *Roosevelt to Roosevelt* (Henry Holt and Co., pp. 518), is concerned mainly with economics and government, with little attention to cultural and sociological developments. Above all, it is realistically critical. Imperialists, selfish business interests, the War, the Red hunt, the Ku Klux Klan, poverty and insecurity, reactionary Republicanism—all are subjected to the historical whipping-post. One cannot help wondering what effect the study of numerous recent books like this, all battling away at big business's lack of social consciousness, will have on the future business leaders now in our universities. Possibly this somewhat partisan attack, identifying itself with Wilson's New Freedom and Roosevelt's New Deal, may go a trifle too far. Partiality may provoke an unhealthy reaction in some students. Again, Professor Dumond and the others can hardly remain true to scholarship when they

take sides. The cause of knowledge is not promoted by calling Charles Dawes a fascist. Yet, on the whole, Professor Dumond is discriminating in his attack. He steers his course unhesitatingly 'twixt Bourbons and Crack-Pots. Certain criticisms of structure, unhappily, must be made. The book seriously lacks coherence and emphasis. A mass of declarative sentences are thrown at the reader, with nothing to draw them together. The author has failed to realize that the human mind, even of a college sophomore, demands that certain ideas stand in relief. There are few lights and shadows, and the student will suffer for it. Again, one is hard put to get a connected picture of any one topic because of the fact that the author takes his history in pinches. The labor movement is discussed separately in five different chapters and agriculture in at least four. Consequently there is no feeling of causes, sequences, and trends, which history, as distinct from mere chronicling, above all should reveal. Finally, there seems a lack of deep knowledge and research. The book is not a profound interpretation of modern America. Though greatly needed, such an interpretation is not forthcoming from this author any more than from political scientists.—JOHN THURSTON.

The *Municipal Year Book, 1937* (International City Managers' Association, pp. viii, 599), edited by Clarence E. Ridley and Orin F. Nolting, not only is larger than any of the previous volumes in the series but is distinctly better. There is a valuable compendium of statistical matter on various phases of municipal government, such as growth of cities and personnel and finance administration. No better résumé of municipal activities in 1936 can be found than that presented in Part I. The developments and trends are summarized by specialists in the respective fields. While the remaining four divisions of the book—governmental units, municipal personnel, municipal finance, and sources of information—are the same as in the 1936 *Year Book*, the material has been brought up to date and many new sections added. Problems which are receiving increased attention from public officials are emphasized. The two subjects to which the most space is devoted are finance and personnel. There is a section on financing relief and recovery which discusses the work of the various federal agencies. The developing relationships between the national and local governments are referred to in several other sections of the book—especially that on federal-city relations in 1936. In view of the disturbed conditions in the private labor field, the material on municipal personnel is of particular interest. There is a section on city-wide organizations of municipal employees. In the selection of subjects and the allotment of space to each, the editors are to be commended. The result of their efforts is a year-book which will be of great value to all persons interested in municipal government and administration.—CHARLES M. KNEIER.

The *Reorganization and Consolidation of State Administration in Louisiana* (Bureau of Government Research, Louisiana State University, pp. 270), by R. L. Carleton, is naturally concerned mainly with affairs in Louisiana. However, a brief but careful analysis of the problems in state administrative organization and a summary of the progress made toward administrative reorganization in the forty-eight states make the book a useful addition to the general literature of state government. The facts appear to be reported reliably, although one might be constrained to disagree with some of the opinions and conclusions. Probably a more important reason for the increased cost of state administration during the past three decades than the two given (p. 12) is the increased services rendered. The major portion of the book (pp. 46-217) consists of a brief treatment of each of the 174 offices, boards, and commissions making up the state administrative organization of Louisiana. Citations to constitutional and statutory provisions and judicial decisions are given, together with a brief statement of the organization, duties, and powers of each agency. This section of the book shows evidence of much painstaking research. In Part IV, the author gives alternative plans for a complete reorganization of the state administrative system. The first, a plan of expediency, proposes only statutory changes. The second, more idealistic, would involve both constitutional and statutory changes.—P. S. SIKES.

In *Social Characteristics of Cities* (International City Managers' Association, pp. 70), William F. Ogburn has presented what he defines as a "basis for new interpretations of the rôle of the city in American life." The report presents in distilled form the results of an elaborate statistical process. The preliminary chapters are devoted to sociological data on population traits, occupations, and family life in cities, from which are drawn many observations upon the characteristics of cities varying in size. There follows an analysis of how cities compare in providing social services for their populations. Under the heading of daily living are presented many of the glaring facts accruing from the real property inventory of cities made by the Department of Commerce. Regional differences and urban resemblances are set forth. The conclusion is reached that there is a good deal of loose talk about regional differences. Actually, cities of different regions possess much in common. The social characteristics of trading centers, factory towns, transportation centers, mining towns, pleasure resorts, health resorts, and college towns are set forth. Differences were analyzed between satellite cities and average cities, between wealthy suburbs and industrial suburbs, between increasing cities and decreasing cities. The tabulation of sociological data here made available cannot be overlooked by the student of municipal government and administration.—ARTHUR W. BROMAGE.

About twenty years ago, there appeared a treatise on police training in which the author assured all prospective candidates that if they had a thorough knowledge of Shakespeare, the second book of Blackstone's *Commentaries*, and the Bible, they might regard themselves as eminently equipped to render police service of the highest order. There is no mention of these estimable volumes in the *Yearbook of the International Association of Chiefs of Police* (International Association of Chiefs of Police, 1936-37, pp. 244), but there is much excellent material on the rôle that science may play in police administration and work. Some thirty papers by experts discuss such diverse aspects of police administration as personnel, training, scientific standards, press relations, records, traffic enforcement, and crime prevention. Perhaps the most important fact implicit in this volume is the increasingly changing point of view on the part of police executives who at long last have awakened to the fact that police work can never be regarded as reasonably successful until the field becomes professionalized. It is evident in these pages that the laboratory and trained personnel are no longer the demands of academic police experts but rather the recognized essentials of effective police administration. For those interested in the origin of police radio, the brief paper by W. P. Rutledge, formerly commissioner of police in Detroit, and at present chief of police at Wyandotte, Michigan, is worth reading, if only to see the simple beginnings of one of the greatest advances made by police in the past hundred years.—J. P. SHALLOO.

In the preface to *A Bibliography of Police Administration and Police Science* (Institute of Public Administration, pp. xv, 152), prepared by Sarah Greer, librarian of the Institute, Mr. Bruce Smith indicates the purpose and scope as including a selection of European materials of general usefulness to students of police administration and science as well as a more comprehensive selection of the American materials. There are also references to materials in periodicals, and to the writings on the subject which may be termed the classics in the field in which the interest of the contemporary student would be primarily historical. The references are organized about regional divisions, levels of government, and functional problems, and a brief selection of titles in the field of crime and criminal law is included.—JOHN M. GAUS.

Catching Up With Housing (Newark, N. J.: Beneficial Management Corporation, pp. 243) was prepared by Carol Aronovici and Elizabeth McCalmont primarily as a handbook for the use of employees of the personal finance companies engaged in the small loan business. It is the first of a series of such handbooks on various subjects, the object of which is to bring to the personnel of these companies a realization of opportunities for the rehabilitation of families with whom they come into con-

tact. The first chapter shows the deleterious effects of poor housing and its importance as a matter of public concern. There follows a section devoted to housing facts and figures which includes statistics on incomes, rents, family budgets, and the shortage of dwellings. There is a chapter devoted to the agencies of the federal government which deal with housing; others on the history and future of housing in the United States and the relationship between housing and employment. The authors also discuss the legal and financial basis of housing, land policies, taxation, community planning, and management. The appendix contains a list of federal housing projects, a list of state enabling laws, a glossary of terms, a bibliography, and a list of housing agencies and organizations. Compilations of this kind are, of course, useful. Unfortunately, the present volume contains some slight inaccuracies which lessen its value as a source of entirely dependable information.—ELIZABETH LONGAN.

The *Fifth Yearbook of School Law: 1937* (Washington, D. C.: American Council on Education, pp. 144), edited by M. M. Chambers, presents a topical summary of the decisions of the higher courts of the respective states, as reported during 1936, in cases involving school law. The volume embraces sixteen chapters by as many different authors. Subjects considered in the various chapters include the rights of pupils and parents; certification, appointment, and tenure of teachers; creation and alteration of school districts; school corporations and officers; school contracts; management and control of school property; tort liability of school districts and school personnel; taxation and indebtedness for educational purposes; county and state school administration; state institutions of higher education; private schools and colleges; and tax exemption of educational institutions. An introduction entitled "Instruction in School Law" presents a timely survey of courses in school law offered in American colleges and universities. Recent doctoral dissertations in the field of school law are listed in an appendix. Like its predecessors, the volume will serve as a useful reference book for school officials and others interested in the legal aspects of school administration.—CLYDE F. SNIDER.

In *The City's Role in Strikes* (pp. 22), the International City Managers' Association has reprinted a group of articles which appeared originally in the February and April, 1937, issues of *Public Management*. The pamphlet opens with three editorials giving some points of view of the employers, of the laborers, and of the public concerning strikes. Articles by Donald C. Stone and Arnold Miles follow, upon public interest in labor disputes and upon what a strike means to the police. These set forth in a general way observations as to how public officials should acquit themselves in face of labor troubles. In a brilliant article, City Manager Henry Traxler tells of his experience in a strike in Janesville,

Wisconsin. Lyman S. Moore, in a concluding article, makes clear the desirability of having local labor relations boards such as the Toledo Peace Board. The reprint is a timely one in this strike-bound year. It demonstrates the difficulties that cross the path of public management when labor and capital clash on a broad front, with both old and new methods in play.—ARTHUR W. BROMAGE.

Constitutional Problems of Tennessee (University of Tennessee, Division of University Extension, pp. 115), prepared by the department of history and political science and the school of commerce of the University of Tennessee, purports to be a study of specific problems of state government in Tennessee as compared with problems of state government in general throughout the Union. The announced purpose of the study is "to provide voters with information that will aid them in deciding whether any constitutional changes are required, and if so, the nature of the changes that should be made." The authors make no claim to originality of treatment and frankly admit that some topics have been omitted entirely and others treated in a summary manner. Although the education of the voters of Tennessee is a most laudable aim, it can hardly be consummated by a summary of "the eternal verities" found in most texts on state government and a digest of certain portions of the state constitution. An electorate with a tobacco-spitting complex and a homespun philosophy is not likely to be convinced by the pious homilies of the professors at the state university.—ROBERT J. HARRIS, JR.

A Regional Redistricting Plan for the State of Utah (Brigham Young University Studies, 1937, No. 5, pp. 59), by George H. Hansen, is condensed from a W.P.A. research project in "The Human Geography of Utah." The plan presented would substitute six districts for Utah's twenty-nine counties, in order that county units may conform to natural geographic areas, and to population and trade centers. The three to nine administrative districts of nine different governmental agencies are shown by maps and considered in relation to redistricting. Supporting data on population and taxation are presented in tables. The usual arguments regarding county consolidation for a motor age are reiterated. Though the writer wisely awaits reliable factual data before estimating probable savings, he unwisely calls "conservative" an estimate by various state authorities of twenty-five per cent. Reliable data for other states show more meagre savings. Quotations from doubtful authorities also detract from the scholarliness of the monograph.—WILLIAM L. BRADSHAW.

The principal changes introduced by Professor Oliver P. Field in the second edition of his well-known *Selection of Cases and Authorities on*

Constitutional Law (Callaghan and Co., pp. xxxvi, 1097) are, first, the omission of expository matter included in the first edition; second, employment of the space saved in this and other ways to present, along with "the famous old cases of our constitutional law," a liberal selection of cases decided since the first edition was published in 1930; and third, a considerable rearrangement of the sequence of topics taken up. The chief additions are, of course, cases involving aspects of the New Deal—cases chosen, it is rightly believed, to include only those that are fairly assured of lasting significance. Professor Field concludes his new preface with the interesting observation: "One criticism of the first edition I have been unable to meet: I have been unable to select cases that show the subject of constitutional law to be as static as some critics seem to have thought it to be."—F.A.O.

Oscar Doane Lambert's *Presidential Politics in the United States, 1841-1844* (Duke University Press, pp. ix, 220) is a flimsy historical account of presidential politics from the time of the election of William Henry Harrison up through the campaign of 1844, based on materials gathered from official documents, manuscripts, biographies, and newspapers and magazines of the period. The author describes John Tyler's succession to the presidency, his conflict with distrustful and unsympathetic party leaders in Congress and in the cabinet, and the struggles of parties and leaders to win the presidency in 1844. The book is poorly written, contains an absurd index, numerous incorrect page citations, and many quotations in which words have been either omitted or included improperly, or sentence structure altered, apparently to suit the author's fancy.—ALDEN L. POWELL.

Students and teachers of state government in the high schools and colleges of the state, as well as the general reader, will find *The State Government of Indiana* (Principia Press, Inc., pp. vi, 120), by Pressly S. Sikes, both a readable and an accurate summary of the outstanding features of their government. Following a standard chapter sequence, and concerned largely with factual material, the volume should be regarded as a significant contribution to the literature in its field. Many students will be attracted to the book because of the competent description of the administrative reforms introduced during Governor McNutt's term of office. Since this is the first in a projected series of studies of "governmental organization and administration in Indiana"—a field much neglected in the past—it is to be hoped that the terse style and interesting presentation of this volume will be continued in succeeding ones. There are several charts and a selected bibliography.—HARRY W. VOLTMER.

The Bureau of Public Administration at the University of California has published, in mimeographed form, *Training for Public Service*;

A Bibliography (pp. 48), compiled by Dorothy Campbell Culver. A very useful list, running to more than five hundred items, is arranged in four parts, relating respectively to training for public service in the United States, training for public service in Europe, schools for training for public service, and training for specific types of public service.

FOREIGN AND COMPARATIVE GOVERNMENT

An author who seeks to present an adequate treatment of the governments of England, France, Germany, Italy, and Russia in approximately five hundred pages has set himself a difficult task. The limitations which must necessarily be observed in such a book present many acute problems of selection. In his *Comparative Major European Governments* (Farrar and Rinehart, Inc., pp. ix, 537), Professor J. G. Heinberg has attempted this task. In writing the book, he discarded "the conventional country-by-country arrangement in favor of a functional approach." Useful as the so-called functional approach may be, one might question the desirability of following this procedure in the book under review. For reasons which will appear, the volume could hardly be used by advanced students of foreign government. If, on the other hand, it is intended for introductory purposes, there is the danger that beginning students will not have the background necessary to obtain the proper perspectives; for a mass of diverse material passes before the reader in a kaleidoscopic fashion. Notwithstanding the comparative brevity of the book, the author covers all of the more important political institutions in the five countries named and adds other material usually absent in text-books on comparative government. There are chapters on the constitutional development of the countries treated, on constitutions, on titular executives and secondary chambers, on political parties, on electoral systems, on legislation, on administration, on local government, on economic control and the social services, on finance, on courts, on individual rights, and on foreign, imperial, and colonial relations. Unfortunately, this wide range of subject-matter is very often sketchily dealt with. In too many instances, the book becomes a mere recitation of descriptive material with little or no attempt at analysis or interpretation. Thus the constitutional developments in England, France, Germany, Italy, and Russia are described in 34 pages; local administration and government in these five countries is dismissed in 30 pages; and the complexities of the foreign, imperial, and colonial relations of the five powers are treated in 27 pages. Repeatedly, the author might better have paused for elaboration than proceeded to another subject. For example, in speaking of the adoption of the electoral law of 1923 in Italy (p. 64), he writes that "in spite of considerable opposition, the bill incorporating the proposed changes secured the approval of the Chamber by a two to one majority." Nothing

is said as to what parties supported the bill and why their support for this extraordinary piece of legislation was forthcoming. Again (p. 83), was von Papen's resignation merely "a strategic move?" What preceded the negotiations (p. 84) between von Hindenburg and von Papen and between von Hindenburg and Hitler in January, 1933? Can the subject of advisory economic councils be dismissed in but a few paragraphs? The Economic Advisory Council in England is summarily dealt with (p. 287) as follows: "Apparently, the English experiment, the National Economic Council, has been a rather complete failure." Professor Heinberg's book is readable and very well written. In the opinion of the reviewer, however, he has attempted to cover too much in so small a book.

—HARLOW J. HENEMAN.

Those Englishmen who strongly oppose Mussolini's adventure in Ethiopia should inspect more carefully the administrative programs and techniques of their own government in Africa. George Padmore, in his *How Britain Rules Africa* (Lothrop, Lee and Shepard Co., pp. 402), severely indicts His Majesty's Government for policies which for decades have suppressed the natives under its control. Taking up in turn each British dominion, colony, protectorate, and mandate in Africa, excluding Egypt and the Sudan, the author lays bare the oppressive practices which, designed at first only to maintain the social and political superiority of the whites, are coming to mean economic strangulation for the blacks. For the political scientist searching for pictures of constitutional relationships or governmental forms, this book will be of little value. Only in one chapter (XII) can one discover an institutional treatment of the problem presented by the title. However, for those interested in the actualities of administration, or "practical imperialism," this book performs a service. Students of African politics have long been acquainted with the various forms that racial discrimination has taken: hut and poll taxes, forced labor, segregation, expulsion from the land, "pass laws," and denial of educational advantages. But the account presented by Padmore is more integrated and complete than those to be found in standard works on Africa. Each British possession, from Uganda and the Gold Coast, the best governed, to Kenya, the worst administered, is analyzed in its economic and social aspects, with the conclusion always the same: Great Britain has sold the natives down the river. The position of the blacks has been made more acute by the development of finance capitalism which, working hand in glove with colonial administrators, has carried to completion public works projects benefiting directly those in commercial and financial control, but for which the natives are taxed. Taxation serves a double purpose. While paying for railroads (rarely constructed through the native reservations) and power plants, it forces

the natives into the towns and mines where they work for starvation wages. Unionization is suppressed, not only by those in power but also by white labor whose wages and working conditions are maintained at a much higher level, partly to preserve the myth of white superiority and partly to preclude the merging of the black and white proletariat. Padmore, a native of Africa, concludes that no remedy will be forthcoming from London: "The British Colonial Office is an institution which does not change, regardless of the political party in office. And this is the reason why Tory-minded governors can afford to sabotage any reform instituted by a Labour government without fear of losing their jobs." If any reconstruction is to take place, it must come from the development of a native African nationalism and from a realization on the part of British and world working classes that they will never be able to emancipate themselves without the fraternal support of colonial and subject peoples. There are times when the reader becomes a little impatient. Padmore's native bias is always in evidence, and his method of presentation entails considerable repetition. Nevertheless, for those who grow weary of Empire apologists, this work provides a salutary respite.—
VERNON A. O'ROURKE.

One of the most realistic and refreshing works on English politics that has appeared in many a day is S. Maccoby's *English Radicalism, 1832-1852* (London: George Allen and Unwin, Ltd., pp. 462); and it is gratifying to learn that two volumes carrying the study further are projected. To be sure, the well known work of Elie Halévy covers the period with a thoroughness never previously attained; but, as Mr. Maccoby justly remarks, even that pioneering treatise leaves some questions unanswered and others unasked. After years of laborious research in a multitude of more or less out of the way materials—minor newspapers, records of conventions and meetings, correspondence, parliamentary petitions, and other sources hitherto largely unexplored—the author addresses himself to a history and interpretation of the reforms achieved in the period covered, not as a matter of cabinet decisions and parliamentary enactments, but as the outcome of "pressures from without;" and included in the sweep of his study is the whole complex of "reform" and "radical" proposals of the time, whether ever achieved or not. He shows how when the outside pressures became irresistible, cabinets, whether Liberal or Conservative, systematically planned sedatives in the form of legislative compromises on the most modest lines possible; how further rigid safeguarding for protection of "the settled institutions of the country" was likely to be insisted upon by the ultra-conservatives in the House of Lords; and how after the legislation was passed so-called "public opinion" in the shape of such organs as the *Times* habitually played up, for popular

effect, the changes of a "great liberal and progressive era" which English political genius was able to bring about peacefully from year to year. Altogether, the volume comes closer to the American type of "pressure politics" studies than anything heretofore published in a European country.—F.A.O.

Among the many current books on Mexico, few have scholarly character; but among these few, Eyler N. Simpson's *The Ejido: Mexico's Way Out* (University of North Carolina Press, pp. 849) takes high rank. The author is frankly sympathetic with the revolutionary land program, but in his analyses states impartially both its weak and strong points. Others have set out the terms of the new land laws and have expounded the "spirit of the revolution." Mr. Simpson does a much greater service by giving case studies of the communities set up under the laws and descriptions of what the village organizations actually accomplish. He analyzes also the abuses which are never avoidable in so radical a remoulding of the system of real estate tenure as that which Mexico is carrying through. Land legislation is reviewed through 1934, since which time the program has become markedly more radical, though the end sought, to give land to the landless, remains unchanged. The social ambition of the revolution is stressed rather than its financial problems and its immediate economic consequences. He believes that the land program may be a part of a movement to create for the people a better mode of life than they have known, and even "a better life than has yet been achieved . . . perhaps in any part of the world." Along with this development he thinks that there should go an evolution of Mexico toward a new industrialization, which indeed is already "impending." Development of heavy industry is unlikely, but the transforming industries offer great opportunity for diversification. In the long run, exploitation in small plots and small factories are what Mexico should seek. On these bases, by the adoption of modern techniques, Mexico can win a better place among the nations of the machine age. That belief in success demands a number of assumptions, the author frankly admits. Among them are the adaptability of the Indian to the life of the modern world, the ability of governmental agencies to lead him into the competitive system of our times, and finally the adequacy of Mexican resources to make possible the higher standard of life sought for its present population and for that more numerous people which is coming into being.—CHESTER LLOYD JONES.

The Political Principles of Some Notable Prime Ministers of the Nineteenth Century (London: Macmillan and Co., pp. vi, 300), edited by F. J. C. Hearnshaw, consists of eight lectures delivered at King's College, University of London, by H. W. V. Temperley, Sir Charles Oman, Sir

Richard Lodge, Philip Guedalla, W. F. Reddaway, F. J. C. Hearnshaw, Ramsay Muir, and C. H. K. Marten. The subjects of the lectures are Canning, the Duke of Wellington, Sir Robert Peel, Lord Palmerston, Lord John Russell, Disraeli, Gladstone, and the Marquess of Salisbury. The editor remarks, in a short introductory note, that it will be found that the different lecturers have interpreted the expression "political principles" very variously. The extent of treatment also varies from fourteen pages on Canning to sixty-two on Sir Robert Peel. In general, the essays are informative and very readable biographical sketches. The volume was first printed in 1926, and it is to be regretted that the decade that elapsed before the second printing did not produce a thorough introduction, an adequate summary, a bibliography, and an index, all of which are lacking.—J. G. HEINBERG.

Land Utilization and Rural Economy in Korea (University of Chicago Press, pp. xii, 302), by Hoon K. Lee, is one of a group of studies of land utilization made for the Institute of Pacific Relations. It measures up to the high standard set in the Institute's publications, throwing much needed light on the Korean economy as it has developed under Japanese control. For the political scientist, its particular interest lies in the data which it provides for judgment as to the benefits which Japan has conferred on Korea since the annexation. While the general backwardness of conditions, as revealed in the study, cannot be ascribed to Japanese rule, it is made clear that Japan has not materially improved conditions for the Koreans. The detailed character of the study is indicated by the presentation of 132 tables and 12 maps and charts, prepared partly from official compilations and partly from "sampling" studies made by the author.—HAROLD M. VINACKE.

As an understanding of the world scene becomes more important in high school instruction in history and the social studies, teachers and students are finding Frank Abbott Magruder's *National Governments and International Relations* (Allyn and Bacon, pp. xiv, 596, 36) useful and reliable for text or reference purposes. The new edition (1936) is sufficiently revised to bring the treatment of changing governments up to date. The scope and balance of the text are admirable, with eight out of twenty-nine chapters devoted to problems of world organization and international relations. In a later revision one would welcome a new chapter on the constitution of the British Commonwealth of Nations.—BURR W. PHILLIPS.

INTERNATIONAL LAW AND RELATIONS

Although *The Law of Peace* (London: Macmillan and Co., pp. 261), by the late C. van Vollenhoven, is a translation of a work first published

in 1932 (*Du Droit de Paix: De Iure Pacis*. The Hague: Martinus Nijhoff), the validity of its observations on the study and practice of international law has not been lessened by the events of the past few years. No writer has seen more clearly or stated more courageously the basic defects of the present system of international law. The law of nations from Vattel to the present is characterized as "a nominal law of peace, exacting in character, elaborated in detail, full of celestial principles and unctuous rhetoric, but one that is rendered utterly futile by the reservation, ceaselessly reiterated, that it is for the sovereign states to judge the extent to which those principles and that rhetoric shall bind them in the sphere of reality" (p. 108). The science of international law, far from pointing the way to reform, has failed to supply the theoretical foundation for the scanty positive results which have actually been achieved. It has been "a servile science of jurisprudence, *ancilla potestatis*, instead of directing attention all the time to the shortcomings of a 'law' possessing no sanctions or guarantees, and instead of cleaving to a man like Grotius who had the courage to face up to the truth, contracted the habit of pleading that a law of peace which is continually ignored was none the less a 'law' of spotless character and beyond reproach . . ." (p. 135). Peace must be organized, and "any organization which is not backed by force is valueless" (p. 188). It can be achieved only through the implementation of the preventive powers under Article XI of the Covenant through an international police force. The tone of the work is one of present pessimism tempered by a confident optimism for the future. The simplicity and clarity of the author's exposition cannot wholly conceal his encyclopaedic historical and legal learning.—LAWRENCE PREUSS.

To the student of eighteenth-century English and Chinese economic and cultural history, Earl H. Pritchard's second study in the field, entitled *The Crucial Years of Early Anglo-Chinese Relations, 1750-1800* (Research Studies of the State College of Washington, Vol. IV, Numbers 3-4, September and December, 1936, Pullman, Washington, numbered pages 96-442) is of far greater value than the length of this note might appear to imply. An introductory statement regarding history and relativity, calculated to cause gnashing of teeth on the part of certain historians and social scientists, is followed by discussion of cultural difficulties in the relations of China and the West, a résumé of Anglo-Chinese relations prior to 1750, and a statement concerning the crucial significance of the ensuing fifty years. Then follow admirably clear accounts of the Chinese government's legalization and fixation of the trading system at Canton, 1751-61; of the East India Company's trade with China, 1760-1800; and of private, country, and foreign trade and the struggle for control of the China trade during approximately the same period. Foundation or back-

ground analyses are followed by an account of the results, namely, preparations for and sending of the abortive Cathcart embassy (1787-88) and the fruitless Macartney embassy (1792-93), and a critical consideration of the reasons for the failure of the latter. Based almost wholly upon manuscript materials at the India Office and in the Wason collection on China at Cornell University, the accounts of these embassies are the most exhaustive yet published and constitute a definitive study. Valuable statistical materials relative to the goods imported into, and exported from, China by the East India Company, 1760-1800, are contained in twelve appendices. A twenty-eight page bibliography and an excellent index and glossary complete a first-rate study.—HARLEY F. MACNAIR.

In his *The Far East in World Politics; A Study in Recent History* (Clarendon Press, pp. vii, 276), Mr. G. F. Hudson, of Oxford University, has undertaken to provide "a short historical introduction to the present international situation in the Far East." Disregarding the domestic affairs of the countries concerned (except in respect to the "march" of the Kuomintang in China and the responses of China and Japan to Western pressures in the nineteenth century), the author traces, in chronological narrative, the unfolding panorama of international events in Eastern Asia from the visits of the early Western traders to the beginning of the Japanese military drive in Manchuria in 1931. What has happened since the last-mentioned occurrence, belonging to "contemporary" history, is assumed to be sufficiently familiar to the volume's readers. Although engaged mainly in telling a story, Mr. Hudson contrives to pack a good deal of interesting interpretation into his few small pages, as, for example, when he argues in his concluding chapter that without economic sanctions applied by the League and the United States Japan could not have been stopped in Manchuria in 1931; that such sanctions could hardly have been made effective without the coöperation of Soviet Russia; that such coöperation "would not have been welcome to the other Powers opposed to Japan;" that the crushing of Japanese power in Manchuria must have meant "the return of Russia and a new upsetting of the trembling balance of China's domestic politics, with world-wide repercussions;" and finally, that how, in such a case, the League and the United States could deal with a Soviet Russia no longer held in check by Japan constituted a dilemma to which there was no solution. As for the four Great Powers sitting in judgment at Geneva—Great Britain, France, Fascist Italy, and Nazi Germany—"What a quartet to apply collective security! What solidarity, what perfection of mutual trust, what disinterestedness of devotion to the reign of law, what capacity for harmonious coöperation!" Small wonder that the Japanese militarists were unimpressed, and saw the way clear to play the lone hand of recent days in Far Eastern politics!—F.A.O.

Although, as a matter of political fact, the Free City of Danzig now has the status of a provincial branch of Nazi Germany, it still offers its separate and peculiar problems of constitutional, administrative, and international law. In the second volume of *Danziger Staats- und Völkerrecht* (Danzig: Verlag Georg Stilke, pp. 392), Dr. Georg Crusen, retired (because of age) chief justice of the Free City, and Dr. Hermann Lewinsky, a practicing attorney, supplement the collection of laws, treaties, and decisions of Danzig courts and League of Nations organs issued in 1927 by Drs. Lewinsky and Wagner.² Contrary to the arrangement of the earlier book, lack of space has now forced the substitution of mere excerpts and references for the complete texts in the case of some treaties and legal decisions. The extensive and elaborate table of contents has most convenient references to the corresponding sections of the first volume. The editing has been done in a very thorough manner, and the index is good. This book is supplemented by the latest additions to two important series: (1) *Zusammenstellung der zwischen der Freien Stadt Danzig und der Republik Polen abgeschlossenen bedeutsamen Verträge, Abkommen und Vereinbarungen* (Vol. XIII, 1935, pp. 299), and (2) *Décisions du Haut Commissaire de la Société des Nations dans la Ville Libre de Dantzig* (Vol. XII, 1933, pp. 73), both published under the auspices of the Danzig Senate and containing the official texts of treaties and agreements between Danzig and Poland and decisions of the High Commissioner of the League, respectively. For studies relating to Danzig's tie-up with the League of Nations, *Danzig vor dem Völkerbund, Verhandlungsberichte und amtliche Schriftstücke* (Vols. I to VIIb, mimeoprint, published between 1929 and 1936 under the auspices of the Senate of the Free City) offers complete collections of official League reports, discussions, and other documents concerning Danzig matters before the League Council since 1922 (in German translations, with marginal references to the corresponding official texts in French and English). This collection, intended for the use of Danzig government officials, is a very helpful guide through the maze of League of Nations material on Danzig, especially as each volume is carefully indexed.—JOHN BROWN MASON.

The twelfth edition of the *Armaments Year-Book* of the League of Nations (Geneva: League of Nations, 1936, pp. 1129) conforms in the main to the scheme of presentation in previous volumes. Within the limitations imposed by available data (which are woefully incomplete in the case of Germany, for example), detailed information on sixty-four countries (including their colonial forces) is compiled under four heads: (1) Land Army, (2) Air Force, (3) Navy, and (4) Expenditures on National Defense. In most cases, the figures come down to June, 1936, while

² See this REVIEW, August, 1929.

estimates for 1936-37 are presented wherever possible. Two valuable annexes have been incorporated into the volume. The first contains the text of all disarmament treaties and conventions concluded since 1815, the latest being the London Naval Treaty of 1936 and the Montreux Straits Agreement. The second annex consists of recapitulatory tables showing the chief characteristics of armies and navies, the age distribution of the male populations of the various countries, and the aggregate world military expenditure from 1925 to 1934, in gold dollars. The information on war materials to be found in earlier volumes is omitted, the reader being referred for it to the *Statistical Year-Book*. Nor is any attempt made to compare arms expenditure by countries. This is a matter for regret. It should not have been impossible for the League statisticians, with the aid of index numbers and exchange rates, to surmount the difficulties caused by price changes and currency fluctuations and devise a usable standard of comparison.—WALTER R. SHARP.

The first item in the eighth volume of the *Diplomatic Correspondence of the United States: Inter-American Affairs, 1831-1860*, relating entirely to Mexican affairs (Carnegie Endowment for International Peace, pp. liii, 1006), deals with the desire of the Americans for Texas. The 642 documents which follow are all concerned with one or another phase of this all-consuming objective. The formal communications between the nations are characterized by oleaginous assertions of great friendship and high ideals on the part of the Americans and of unctuous protests in an aggrieved spirit by the Mexicans. Reports of American ministers to the State Department reveal that the American emissaries—Anthony Butler, Powhatan Ellis, Waddy Thompson, Wilson Sherman, John Slidell, and Nicholas Trist—overlooked no opportunity to press American claims, protect American citizens, and engage in dark intrigues to obtain land cessions from a distressed neighbor. At the same time, the documents show the inefficiency, corruption, and procrastination of the Mexican politicians, who used the American and Texas questions to gain and retain office and stirred up the local jingoes to demand war. Given such conditions, it is apparent that the Mexican War was truly an "irrepressible conflict." The documents of this volume carry the story to June, 1848. Volume IX in this invaluable and well-edited series will contain the correspondence from 1848 to 1861.—W. B. HESSELTINE.

The distinction of being the first systematic and the most complete study of the post-war policy of Czechoslovakia belongs to Dr. Felix John Vondracek's *The Foreign Policy of Czechoslovakia, 1918-1935* (Columbia University Press, pp. 451). By utilizing the source and secondary material, the book records, step by step, various nuances of the foreign policy of Prague. Those who like their history seasoned with a philosophical approach will not find much of it in the work, and although the

author has failed to achieve a penetrating imaginative analysis of the already available facts, the book has a quality, and, despite its apparent lack of distinction, carries a punch. A good bibliography and an index add to the value of this good historical chronicle, presented in an admirable spirit of impartiality.—J. S. ROUCEK.

International Law Situations; With Solutions and Notes (U. S. Govt. Printing Office, pp. viii, 134), the thirty-sixth annual volume in a series distinguished for its practical objectives and for the careful preparation given by Professor George Grafton Wilson, deals instructively with groups of questions relating to (1) vessels and neutral ports, (2) action during civil strife, and (3) aircraft and hospital ships. Justification for effort to set forth admittedly imperfect rules of international law touching neutral rights and duties is suggested in the statement (p. 3): "It may be much more important that some rules of conduct which are generally accepted be agreed upon in advance, though these are not ideal, rather than that no agreement exist upon any aspect of a subject, and the whole matter be the subject of controversy in a time of crisis when any agreement even upon minor points is difficult."—ROBERT R. WILSON.

Dr. Mahmud Husain's *The Quest for Empire; An Introduction to the Study of Contemporary Expansionist Policy of Japan, Italy, and Germany* (Dacca, India: Asutosh Press, pp. 240) represents an attempt by a reader in modern history at the University of Dacca to interpret the motives, policies, and techniques of the principal so-called "have not" nations in their efforts to gain—or regain—empire. The explanations of expansion given both by the geopoliticians and the historical materialists are properly rejected as "one-sided;" but one looks in vain in the author's pleasantly written but rather superficial chapters for any explanation that is more satisfying. The book is too largely historical and factual to offer more than an outline from which a serious study might conceivably be launched.—F.A.O.

In a pamphlet entitled *The Struggle for Security in Europe* (Southern Methodist University: Arnold Foundation Studies in Public Affairs, Vol. V, No. 2, pp. 46), Professor J. Linus Glanville develops the thesis that, notwithstanding past lack of confidence of European nations in devices for collective security, the basic political problem of that section of the world today is precisely that of organizing such security. With the weakening of the post-war French system of alliances—and of the League, surely it might have been added—Europe finds itself at present without an axis of political control or a dominant cohesive force.

POLITICAL THEORY AND MISCELLANEOUS

The growth of interest, in recent years, in legislation concerning consumers' coöperatives and in the consumers' coöperative movement gener-

ally is reflected in *Consumers' Coöperative Statutes in the United States* (Consumers' Project under Supervision of the U. S. Department of Labor, 1936, mimeographed, pp. 186), which is a useful compilation of the statutes under which consumers' coöperatives may be organized in the various states; and in a book designed to give some account of the history of consumer coöperation and a philosophy of the movement, and entitled *The Decline and Rise of the Consumer* (Appleton-Century Co., pp. xx, 484), Dr. Horace M. Kallen finds in the life of the consumer coöperative, and the implications of the movement, the most adequate opportunities for the development and defense of a democratic and individualistic society as against one in which the emphasis is on an abstract conception of the "economic man" and "producer." The first five chapters (Book I) are given to an interpretation of medieval and modern history from this point of view, namely, that the basic and primary interest of the consumer as the user of goods and services has been distorted by the pressures and influence of the organized producers. Book II contains a particularly useful account of the origins of the consumer coöperative movement in Britain, and especially in this country. This latter material is particularly interesting, and there are many sketches of those contributing to the development of various coöperative enterprises. The concluding book presents discussions of major problems and aspects of the movement, and its implications in social theory. For this latter point, the student of political thought will find the volume especially useful. While it does not reach the level of quality found in George Russell's *The National Being*, which remains the outstanding classic in political theory in the past thirty years so far as the conscious effort to relate the problems of both urban and rural society are concerned, it does have a great value in introducing the student of politics to an aspect of social organization, and of values and outlook, which has been neglected, and which is now winning more attention.—JOHN M. GAUS.

A number of interesting articles that relate to social planning have been collected and edited by Findlay Mackenzie in *Planned Society* (Prentice-Hall, Inc., pp. xxvii, 989). The book is divided into sections on the types of social control characteristic of earlier societies and of the national state, on various areas of economic activity such as land use, prices, and credit, and on over-all systems of economic planning and their implications, including brief accounts of techniques employed in fascist and communist societies. While there is some treatment of the political and administrative aspects of planning involved in the special fields in systems of representative democracy, it would have been useful to have had some account of the concrete contributions which have come from city and regional planning where the problems and possibilities in the use of various techniques are sharply defined, and from the evolution

of internal planning techniques instigated by Taylor and other contributors to the science of management. Much light is thrown on the general problems of planning also by war planning, from which so much of the recent development has received impetus and suggestion. There is a useful bibliography; Lewis Mumford contributes a foreword; and the editor furnishes a general introduction and introductory notes to the various selections. The book should be useful as a source of supplementary readings for students of administration and contemporary political theory.—JOHN M. GAUS.

Competition and Coöperation (Social Science Research Council, pp. viii, 191), by Mark May and Leonard W. Doob, and *Memorandum on Research in Competition and Coöperation* (Social Science Research Council, pp. 389), by Mark May, Gordon Allport, and Gardner Murphy, should be of considerable interest to students concerned with behavior in situations involved in the processes of governing and being governed. The first volume is a printed report of the Council's Sub-Committee on Competitive-Coöperative Habits. It relates "coöperation and competition to the wider field of personality and culture," presents "a tentative orienting theory of coöperation and competition," "organizes existing knowledge that is relevant to coöperation and competition," and selects "a few promising research problems to be reviewed from the standpoint of existing knowledge and techniques and possible future developments." The authors express the hope "that the logical scheme presented, based on both inductive and deductive processes, will prove useful in the systematization of the social sciences and in their laudable quest to become truly scientific." The second volume is a mimeographed report presenting "an interpretative summary of research literature on the subject, a list of research problems drawn from the material examined, and a selected bibliography." Aside from the summary by the Sub-Committee, it is largely the work of the Sub-Committee's research assistants. These subsidiary reports deal with "Coöperative and Competitive Habits of Children," "Quantitative Studies of Coöperative and Competitive Behavior and Attitude in Adults," "Sociological Studies of Coöperative and Competitive Behavior," "Studies of Economic Coöperatives," "Studies of Social and Economic Coöperation and Competition in Russia," "Coöperative and Competitive Habits and Motives as Revealed in Life History Documents," and "Comparative Studies of Coöperative and Competitive Behavior in Primitive Culture." The Sub-Committee of the Council has performed a most useful service for those working toward a more explicit and precise political science.—HERMAN C. BEYLE.

Education Against Propaganda: Developing Skill in the Use of the Sources of Information about Public Affairs (Elmer Ellis, ed., Seventh Yearbook,

1937, The National Council for Social Studies, pp. viii, 183) is designed "to aid in the development of the young citizen's skill in using the easily available sources of information regarding public affairs, and in the enrichment of the social-studies teacher's knowledge in the field of public opinion." The content and pedagogical format of the volume are excellent. It should prove a most useful teaching device for both formal and informal education. "The first eight articles were planned to acquaint teachers with basic concepts." Most of them do fundamental service in marking out objective, practical, and teachable distinctions between propaganda and education. Doubtless many instructors will ask permission to use the sections on the newspaper by Harold D. Lasswell, Ralph D. Casey, O. W. Riegel, and Roscoe Ellard. The general article by Harwood L. Childs and those by Edgar Dale, Hadley Cantrill, and Howard K. Beale on propaganda in the movies, over the radio, and in the schools should also be useful for discussion purposes. "The remaining articles were selected as examples of good practice and theory at present available for use in schools, in the hope that they would suggest procedures to other teachers, and stimulate experimentation with other and, perhaps, more effective means of teaching." They present stimulating suggestions of both qualitative and quantitative analyses possible at the several student levels considered.—HERMAN C. BEYLE.

A generation of monographic research on the Civil War and its aftermath has resulted in extensive revision of most of the earlier concepts concerning the nature, the events, and the significance of the conflict. Professor J. G. Randall's *The Civil War and Reconstruction* (D. C. Heath and Co., pp. xvii, 959) is the first effort by a competent scholar to recast the entire social, political, economic, diplomatic, and military aspects of the struggle in the light of modern researches. Sedulously avoiding adherence to any partisan interpretation, the author refuses to accept the glib explanations of "economic determinism" and believes that the war was not an "irrepressible conflict." Especially noteworthy is the attention given to psychological forces of propaganda, educational movements, and intellectual developments during the war. The volume is invaluable to the student, while its highly readable style and its excellent assortment of illustrations entitle it to a wide circulation among non-professional readers.—W. B. HESSELTINE.

In *Our Rude Forefathers; American Political Verse, 1783-1788* (The Torch Press, pp. 274), Louie M. Miner has brought between two covers the controversial rhyme of a significant epoch in American political development, the so-called "critical period." The volume is important to students of political literature, if for no other reason, because it demonstrates the dithyrambic drivel in which propaganda found expression.

This stuff makes the founding fathers seem more heroic because they survived it. Doggerel of this character must have made a condition of illiteracy well-nigh beatific. The author's industry is commendable, but his suffering in collecting such material must have been "cruel and unusual." Anyone not a candidate for martyrdom should refrain from reading the book. Emphatically, the fault lies not with the compiler but with the "muse" of our fathers. We doubt if the patriotism of the D.A.R. or of the devotees of the constitutional cult could cope with verse of this character.—JASPER B. SHANNON.

Mr. W. F. R. Hardie belongs to the growing counter-revolution against the anti-transcendentalism of science and the modern world. The audacious attempt to bring even Platonism down to earth is altogether too much for him, and in his *A Study in Plato* (Clarendon Press, pp. xiii, 172) he argues, first, that Plato had a system, and second, that it was essentially a transcendentalism; hence Plotinus and the neo-Platonists were correct in their interpretation. Furthermore, contrary to the modern temper, transcendentalism is a thoroughly intellectually respectable doctrine. Quite apart from the merit of Hardie's position, the book is impressive and delightful because of its close and scholarly reasoning.—LESLIE M. PAPE.

In pursuance of its interest in promoting civic forums, the Office of Education in the Department of the Interior has issued an extremely convenient booklet entitled *Public Affairs Pamphlets; An Index to Inexpensive Pamphlets on Social, Economic, Political, and International Affairs*, revised to February, 1937 (Govt. Printing Office, pp. 83). In addition to an index of authors and another of titles, there is a formal bibliography, arranged by organizations putting out the pamphlets, and running to a total of 660 titles. Many of the publications enumerated are, of course, superficial and ephemeral, but the increasing output of those having solid worth amply justifies the present finding list.

The fifth and final volume of Ellis Paxson Oberholtzer's *A History of the United States Since the Civil War* (Macmillan Co., pp. xii, 791) opens with the election of 1888 and closes with the accession of Theodore Roosevelt to the presidency in 1901. The general course of the country's affairs continues to be narrated as in preceding volumes, with emphasis chiefly on political history, but with an interesting hundred-page concluding survey of "material progress and social reform" during the period covered.

DOCTORAL DISSERTATIONS IN POLITICAL SCIENCE

IN PREPARATION AT AMERICAN UNIVERSITIES¹

COMPILED BY E. S. WENGERT

University of Wisconsin

POLITICAL PHILOSOPHY AND PSYCHOLOGY

- Gabriel Almond*; Ph.B., Chicago, 1932. Political Participation in New York City. *Chicago*.
- Sigmund S. Arm*; B.S.S., College of the City of New York, 1932; A.M., Columbia, 1935. Influence of Locke and Montesquieu on the Early State Constitutions. *Columbia*.
- Charles C. Barrell*; A.B., Hampden Sydney, 1931; A.M., Virginia, 1932. Functional Representation—its Theoretical and Practical Problems. *Ohio State*.
- Donald G. Bishop*; A.B., Akron, 1928; A.M., Princeton, 1929. A Suggested Psychological Approach to the Problem of Peace. *Ohio State*.
- Hugh A. Bone*; A.B., North Central College, 1930; A.M., Wisconsin, 1935. Political Education in the United States. *Northwestern*.
- Dorothy Berg*; A.M., Columbia, 1931. Outbreak of the World War; A Comparison of the Facts with the Newspaper Stories of the Outbreak of the War—1914. *Columbia*.
- Mary Capan Lavis*; A.B., Radcliffe, 1934; A.M., *ibid.*, 1937. The Nazi Principle of the Führerstaat and Its Background in German Thought. *Radcliffe*.
- Marie Louise Degen*; A.B., Goucher College, 1935. The Pacifist Ideas and Activities of the American Branch of the Women's International League of Peace and Freedom. *Johns Hopkins*.
- Emmett E. Dorsey*; A.B., Oberlin, 1927; A.M., Columbia, 1932. A Comparative Study of Negro Leaders. *Columbia*.
- Kenneth Eby*; A.B., Manchester, 1927. The Attitude of Japan Toward Internationalism. *Chicago*.
- Harold L. Elstien*; A.B., Syracuse, 1934. The Psychological Reinforcement of Democratic Institutions. *Chicago*.
- Dorothy Fosdick*; A.B., Smith, 1934. Liberty as a Protean Concept in Contemporary Political Thought. *Columbia*.
- Virginia Elizabeth Fox*; A.B., Stanford, 1927; A.M., *ibid.*, 1928. The Origins of the Third International. *Stanford*.
- Clifford E. Garwick*; A.B., Ohio State, 1928; A.M., *ibid.*, 1929. Political Ideas of Thomas Jefferson. *Yale*.
- Hilden Russell Gibson*; A.B., Kansas, 1933. Socio-psychological Aspects of the Political Theory of Karl Marx. *Stanford*.
- Abraham Glasser*; A.B., Rutgers, 1933; A.M., Princeton, 1935. Political Philosophies Revealed in Commentaries and Textbooks in English and American Law. *Princeton*.
- Robert Grove*; A.B., Bucknell, 1931; A.M., Syracuse, 1933. Attitudes Toward Franklin D. Roosevelt as Candidate and President. *Syracuse*.

¹ Similar lists have been printed in the *Review* as follows; V, 456 (1911); VI, 464 (1912); VII, 689 (1913); VIII, 488 (1914); XIV, 155 (1920); XVI, 497 (1922); XIX, 171 (1925); XX, 660 (1926); XXI, 645 (1927); XXII, 736 (1928); XXIII, 795 (1929); XXIV, 799 (1930); XXV, 798 (1931); XXVI, 769 (1932); XXVII, 680 (1933); XXVIII, 766 (1934); XXIX, 713 (1935); XXX, 811 (1936).

- Norman H. Hinton; A.B., California (L.A.), 1933; A.M., Columbia, 1934. American Political Scientists: Francis Lieber. *Columbia*.
- C. Leonard Hoag; A.B., Albion, 1929; A.M., Michigan, 1930. American Opinion on the Navy, 1919-1923. *Clark*.
- Robert D. Howard; A.B., Harvard, 1924; A.M., *ibid.*, 1928. Theories of Conservatism and of Constitutional Democracy in State Constitutional Conventions. *Harvard*.
- William Icaacs; B.S. in S.S., College of the City of New York, 1925; A.M., Columbia, 1932; J.D., New York, 1928; J.S.D., New York, 1929. Contemporary Marxian Political Movements in America. *New York University*.
- Eugene E. Koch; A.B., Pittsburgh, 1932; A.M., *ibid.*, 1935. Political Philosophy of John Selden. *Pittsburgh*.
- Raymond D. Lawrence; A.B., Oregon, 1925; A.M., *ibid.*, 1927. Pluralistic Sovereignty. *California*.
- Mousheng Lin; A.B., Fukien University, 1926; A.M., Oberlin, 1932. The Political Theory of Anti-Stateism. *Chicago*.
- H. Malcolm Macdonald; A.B., University of San Francisco, 1935. The Evolution of the Concept of Nationalism in Marxian Thought from 1845 to 1900. *Harvard*.
- Jerome Machlin; B.S.S., College of the City of New York, 1935. A Study in Protest Politics. *Syracuse*.
- Robert McBane; A.B., Wooster College, 1933. Teachers' Oaths, Affirmations, and Pledges. *Syracuse*.
- Millon R. Merrill; B.S., Utah State College, 1925; A.M., Columbia, 1932. The Public Career of Reed Smoot. *Columbia*.
- Edwin Mims, Jr.; A.B., Yale, 1921; A.M., *ibid.*, 1922. Jacksonian Democracy and Its Broader Theoretical Implications. *Harvard*.
- John E. Nordskog; A.B., Drake; A.M., Columbia; Graduate Studies at London School of Economics and Political Science. Democracy as an Ideology. *Southern California*.
- Andrew E. Nuquist; A.B., Doane, 1927; A.M., Wisconsin, 1936. Modern Chinese Legal Codes as Result and Causation in Chinese Political Thought. *Wisconsin*.
- Charles P. O'Donnell; A.B., De Paul, 1926; A.M., Harvard, 1935. The Political Theory of Jacques Maritain. *Harvard*.
- Leo C. Roster; Ph.B., Chicago, 1930. The Washington Correspondents. *Chicago*.
- George Rowe; A.B., Wisconsin, 1932; A.M., Chicago, 1937. Cooperation Among Farmer-Labor-Progressive Groups in the United States. *Chicago*.
- Mitchel Saadi; A.B., Stanford, 1932. An Analysis of the Technique of Political Propaganda. *Stanford*.
- James H. Sheldon; A.B., Marietta, 1927; A.M., Harvard, 1928. Factors Involved in Determining Public Attitudes Toward International Policies. *Harvard*.
- Mulford Q. Sibley; A.B., Central State Teachers' College, Edmonds, Okla., 1933; A.M., Oklahoma, 1934. Internationalism and Cosmopolitanism in Recent British Thought. *Minnesota*.
- Tarini Prasad Sinha; A.M., Michigan, 1934. The Political Techniques of Gandhi. *Chicago*.
- Bruce Lannes Smith; Ph.B., Chicago, 1933. A Socio-Political Study of the American Social Scientists. *Chicago*.
- Robert L. Stern; A.B., New York State College for Teachers, 1935. Study of Predictions of Newspaper Columnists in the Newspapers of 1934. *Syracuse*.
- Earl N. Stilson; A.B., Harvard, 1932. The Development of Nationalism in France. *Harvard*.
- Donald Strong; A.B., Oberlin, 1934. Organized Intolerance in America. *Chicago*.

Stewart VanDyke; A.B., Indiana, 1935. *Peace-Time Technique of Censorship*. *Syracuse*.

Clarence H. Yarrow; A.B., Cornell, 1931. *The Philosophical Origins of Italian Fascism*. *Yale*.

GOVERNMENT AND POLITICS OF THE UNITED STATES AND ITS DEPENDENCIES

Wesley Adams; A.B., Northwestern, 1935; A.M., *ibid.*, 1936. *Some Phases of American Neutrality Legislation*. *Northwestern*.

Robert D. Bausi; A.B., Williams, 1934; A.M., Columbia, 1935. *Federal Aspects of National Power Policy*. *Columbia*.

Hillman M. Bishop; A.B., Columbia, 1926. *Rhode Island and the Federal Constitution*. *Columbia*.

Eleanor Bontecou; A.B., Bryn Mawr, 1913; J.D., New York University, 1917. *The Rule-Making Power and Federal Legislation*. *Radcliffe*.

Philip I. Booth; A.B., Arizona, 1930. *Criminal Syndicalism Legislation in the United States*. *Chicago*.

Franklin L. Eurdette; A.B., Marshall College, 1934; A.M., Nebraska, 1935. *Congressional Filibusters*. *Princeton*.

G. W. Burkholder; A.B., Penn. State, 1925; A.M., *ibid.*, 1926; LL.B., Duquesne, 1931. *Interest Rate Schedules in Relation to Borrowing by Public Enterprises*. *Columbia*.

Persia Campbell; M.A., Sydney, 1921; M.Sc. (Econ.), London, 1923. *Consumer Representation in the New Deal*. *Columbia*.

George T. Daris; A.B., Clark, 1922; A.M., *ibid.*, 1922. *The Idea of American Naval Parity*. *Yale*.

George R. Dulebohn; A.B., Gettysburg College, 1921; A.M., *ibid.*, 1925; A.M. Pennsylvania, 1930. *The Foreign Policies of Grover Cleveland*. *Pennsylvania*.

Donald M. DuShane; A.B., Wabash, 1927; A.M., Columbia, 1930. *American Naval Policy*. *Columbia*.

Jesse Epstein; A.B., Washington, 1931. *Federal Anti-radical Legislation*. *Washington* (Seattle).

Carl N. Everstine; A.B., University of Maryland, 1930. *Significant Factors in Third Party Movements*. *Johns Hopkins*.

John H. Ferguson; A.B., Nebraska Central College, 1929; A.M., Pennsylvania, 1932. *American Diplomacy and the Boer War*. *Pennsylvania*.

Dayton E. Heckman; A.B., Ohio State, 1931; A.M., *ibid.*, 1931. *Prohibition Passes—A Study of the Tactics of Repeal*. *Ohio State*.

Elias Huzar; A.B., William Jewell College, 1935. *Federal Relief Policies*. *Princeton*.

E. M. Kilpatrick; A.B., Illinois, 1932; A.M., *ibid.*, 1933. *Government Regulation of Advertising*. *Yale*.

Howard Kline; A.B., Toledo, 1931; A.M., Syracuse, 1933. *The Technique of Congressional Investigations*. *Syracuse*.

Robert P. Leone; A.B., Michigan, 1913; A.M., *ibid.*, 1915. *American Naval Armament Building, 1884-1898*. *Chicago*.

Virginia Manca; A.B., University of California at Los Angeles, 1931. *Congressional Procedure on Authorizations and Appropriations in Relation to the National Budget*. *Washington* (Seattle).

Edwin M. Martin; A.B., Northwestern, 1929. *Influence of Organized Economic Groups on Federal Tax and Tariff Legislation from 1921 to 1933*. *Northwestern*.

John W. Masland, Jr.; B.S., Haverford College, 1933. *Conditions and Factors Influencing American Relations with Japan*. *Princeton*.

- Floyd E. McCaffree*; A.B., Michigan, 1927; A.M., *ibid.*, 1928. The Nomination and Confirmation of Justices of the Supreme Court of the United States. *Michigan*.
- Frances G. McLaughry*; Ph.B., Chicago, 1932. Congressional Attitudes Toward International Arbitration. *Chicago*.
- Roland E. Miller*; A.B., Washington, 1931; A.M., *ibid.*, 1933. Party Responsibility in Foreign Relations in the United States. *Washington* (St. Louis).
- Gerold von Minden*; A.B., Dickinson, 1935; A.M., *American*, 1936. The Organization and Structure of Planned Economy in the United States during the World War. *American*.
- Walden Moore*; A.B., Harvard, 1922. The Big Navy Movement in Congress, 1893-1913. *Columbia*.
- Harold W. Moseley*; A.B., Amherst, 1928; M.B.A., Harvard, 1931. The Effects of the "Cash and Carry" Provision of the 1937 Neutrality Legislation. *Harvard*.
- James Alfred Perkins*; A.B., Swarthmore, 1934. Congressional Investigations. *Princeton*.
- W. D. Polk*; A.B., Vanderbilt, 1933; A.M., *ibid.*, 1934. International Obligations Contracted by the United States without Reference to the Senate. *New York University*.
- Margaret J. Schmidt*; Ph.B., Chicago, 1932. Kansas: A Study of Prairie Politics. *Chicago*.
- Robert B. Schwenger*; A.B., Wisconsin, 1928. The Development of American-Hawaiian Relations. *Chicago*.
- Hubert Searcy*; A.B., Birmingham-Southern College, 1929; A.M., Duke University, 1933. Use of Congressional Joint Resolutions in Matters Relating to Foreign Policy. *Duke*.
- Dorothy A. Shields*; A.B., Goucher, 1931; A.M., Pittsburgh, 1933. Third Party Recognition. *Pittsburgh*.
- John S. Sells*; Ph.B., Wesleyan, 1925; A.M., Columbia, 1932. Political Aspects of the Consumer Coöperative Movement. *Ohio State*.
- Libia Harold Studley*; B.S., College of the City of New York, 1921; LL.B., Fordham, 1925; A.M., Columbia, 1929. Progress of Aviation Legislation in the United States. *Columbia*.
- Eugene O. Tanner*; A.B., Texas, 1912; A.M., Texas, 1913. Congressional Reapportionment, 1910-1930. *Texas*.
- Irene Till*; A.B., Syracuse, 1928; A.M., Radcliffe. The Politics of the Milk Industry. *Columbia*.
- John O. Toöler*; lic. en droit, Geneva, 1935. Independence of the Judiciary in the United States. *Johns Hopkins*.
- Ruth G. Weintraub*; A.B., Hunter, 1925; A.M., Columbia, 1927; J.D., New York University, 1920. Government-Owned Corporations—A Study in Federal-State Relationships. *Columbia*.
- Albert C. F. Westphal*; A.B., Columbia, 1929. The House of Representatives and American Foreign Policy. *Columbia*.

CONSTITUTIONAL AND ADMINISTRATIVE LAW IN THE UNITED STATES

- Willard B. Cowles*; A.B., Columbia, 1928. The Interference with Property in Consequence of Treaty without Just Compensation and without Due Process of Law. *Columbia*.
- Harry Lee Cummings*; A.B., Arkansas State Teachers' College, 1927; A.M., Iowa, 1930. The Constitutional Doctrines of Mr. Justice Brandeis. *Iowa*.

- Edna Rose Fluegel*; A.B., Marywood College, 1933; A.M., Duke University, 1936. Concepts of Economic Liberty and the United States Supreme Court. *Duke*.
- William L. Grossman*; A.B., Harvard, 1927; A.M., *ibid.*, 1928; LL.B., *ibid.*, 1932. The Property Clause of the Federal Constitution. *Columbia*.
- Georgia Hamilton*; A.B., Barnard, 1926; A.M., Columbia, 1927; J.D., New York University, 1930. The Trends in Governmental Liability and the Liability of Public Officers in the United States since 1890. *Chicago*.
- Harold F. Hartman*; A.B., Notre Dame, 1930; A.M., Cornell, 1931. The Constitutional Doctrines of Edward Douglass White. *Cornell*.
- Willard H. Humbert*; A.B., Bridgewater College, 1924; A.M., Virginia, 1927. The Pardoning Power of the President. *Johns Hopkins*.
- Harry William Johnstone*; A.B., Washington, 1935. Judicial Unenforceability of the Written Constitution. *Washington* (Seattle).
- Joseph Ernest Kallenbach*; B.S. in Ed., Central Missouri State Teachers' College, 1926; A.M., Missouri, 1928. Delegation of the Commerce Power to the States by Congress. *Michigan*.
- Joseph Kise*; A.B., St. Olaf, 1916; A.M., Harvard, 1928. The Constitutional Doctrines of Harlan F. Stone. *Harvard*.
- Lynford A. Lardner*; B.S., Northwestern, 1932. The Constitutional Doctrines of Justice Brewer. *Princeton*.
- William L. LaRue*; A.B., Northwestern, 1933. Patents and Copyrights in American Public Law. *Princeton*.
- Aaron Lewittes*; B.S.S., College of the City of New York, 1932; LL.B., Columbia, 1935. Judicial Review and the Problem of an Independent Administrative System. *Columbia*.
- Rebecca Matthews McBride*; A.B., Maine, 1930; A.M., American, 1932. Influence of the Supreme Court on State Legislation. *American*.
- Charles N. R. McCoy*; A.B., Dartmouth, 1932. The Law Relating to Public Inland Waters. *Chicago*.
- Vera McLaren*; A.B., Southern California, 1924; A.M., Northwestern, 1929. The Doctrine of Public Interest. *Northwestern*.
- Harold William Metz*; A.B., Cornell, 1930; A.M., *ibid.*, 1931. The Nature of Federal Judicial Power. *Cornell*.
- James J. Robbins*; California (L.A.), 1926; A.M., Harvard, 1927. Economic Associations in the Constitutional System. *Princeton*.
- Leon Sachs*; LL.B., Maryland, 1931. *Stare Decisis* and the United States Supreme Court. *Johns Hopkins*.
- John A. Schroth*; A.B., Princeton, 1932; A.M., *ibid.*, 1934. Dual Federalism in American Constitutional Law. *Princeton*.
- James Emmett Sebree*; A.B., Oberlin, 1902; LL.B., Georgetown, 1925; LL.M., *ibid.*, 1926; D.C.L., National University, 1927. Power of Federal Government and States to Tax Agencies and Instrumentalities of Each Other. *Johns Hopkins*.
- Theodore H. Skinner*; A.B., Hamilton, 1919; A.M., Columbia, 1929. The Relation of Administrative Discretion in the United States to Constitutional Rights. *New York University*.
- Stanley Trefl*; B.S., Northwestern, 1929. State Police Power in Interstate Commerce. *Northwestern*.
- Benjamin Rollins Twiss*; A.B., Dartmouth College, 1934. Laissez-faire in American Constitutional Law. *Princeton*.
- Marion Wolchock*; B.S., New York University, 1929; A.M., *ibid.*, 1932. The Judicial System of Greater New York. *New York University*.

AMERICAN STATE AND LOCAL GOVERNMENT AND POLITICS

- Gladys L. Baker*; A.B., Michigan, 1933. The County Agent. *Chicago*.
- Erwin W. Bard*; Ph.B., Yale, 1925; A.M., Columbia, 1929. The Port of New York Authority. *Columbia*.
- F. J. Barnes, II*; A.B., William and Mary, 1927; A.M., *ibid.*, 1927. The City in Virginia. *North Carolina*.
- Vincent M. Barnett, Jr.*; A.B., California, 1935; A.M., *ibid.*, 1936. Method and Procedure of Deciding Contested Elections in the United States. *Harvard*.
- Byron C. Biggs*; Ph.B., Kenyon, 1921; A.M., Ohio State, 1932. The City Manager Movement in Ohio. *Ohio State*.
- Genevieve Blatt*; A.B., Pittsburgh, 1933; A.M., *ibid.*, 1934. The Assessment and Revision of Taxes in Allegheny County, Pennsylvania. *Pittsburgh*.
- Marcy G. Bodine*; A.B., Bradley Polytechnic Institute (Peoria, Ill.), 1928; A.M., Iowa, 1934. The Administration of the Drivers' License Law of Iowa. *Iowa*.
- Walter Thompson Bogart*; A.B., California (L.A.), 1930; A.M., Stanford, 1931. Jurisdictions, Functions, and Geography of Government in Los Angeles County. *Stanford*.
- Oscar Buckvar*; B.S., College of the City of New York, 1923; A.M., Columbia, 1925. Pressure Groups before the New York Board of Estimate and Apportionment. *Columbia*.
- J. A. Burdine*; A.B., Texas, 1926; A.M., *ibid.*, 1929. Regulation of Industry in Massachusetts, Pennsylvania, and Tennessee before 1875. *Harvard*.
- Richard L. Canuteson*; A.B., Wisconsin, 1925; A.M., *ibid.*, 1930. Railroad Issues in the LaFollette Gubernatorial Campaigns. *Wisconsin*.
- Asher N. Christensen*; A.B., Minnesota, 1924. A Study of the Legislative Settlement of Contested Election Cases. *Minnesota*.
- Frances Priscilla DeLancy*; A.B., University of West Virginia, 1929; A.M., *ibid.*, 1931. The Licensing of Professions in West Virginia. *Duke*.
- Frederick William Dumschott*; A.B., Washington College, 1927; A.M., Virginia, 1931. State Administrative Control of Cities in Maryland. *American*.
- Preston W. Edsall*; A.B., New York Univ., 1923. Journal of the Courts of Common Right and Chancery of the Province of New Jersey, 1683-1702, with an Introduction. *Princeton*.
- Lavinia M. Engle*; A.B., Antioch College, 1912. County Government in Maryland. *Johns Hopkins*.
- Emery Fast*; A.B., Colorado, 1927; A.M., *ibid.*, 1929. A History of the California Criminal Syndicalism Law. *Stanford*.
- Leslie A. Foust*; B.S., Washington and Jefferson, 1922; M.S., *ibid.*, 1924. The Government of Washington County, Pennsylvania. *Pittsburgh*.
- Louis S. Fuerst*; A.B., Tulane, 1916; A.M., Columbia, 1925. Uniform Laws. *Columbia*.
- Wayne Grover*; A.B., Utah, 1935; A.M., American, 1937. Some Aspects of the Movement toward Unicameralism. *American*.
- William L. Harper*; A.B., Wheaton, 1924; A.M., New Mexico, 1927. History of Election Laws of New Mexico. *Columbia*.
- George S. Hart*; A.B., Pittsburgh, 1926; A.M., *ibid.*, 1929. Tax and Budgetary Practice in Pittsburgh, Pennsylvania. *Pittsburgh*.
- Barrett Hollister*; A.B., Antioch, 1936. Regulation of the Milk Industry in New York. *Syracuse*.
- Jack Thomas Johnson*; A.B., Iowa, 1935; A.M., *ibid.*, 1936. The Administration of Unemployment Compensation in Iowa. *Iowa*.

- Walter E. Kaloupek; A.B., Iowa, 1929; A.M., *ibid.*, 1936. The History and Administration of the Iowa Highway Patrol. *Iowa*.
- Clyde Kelchner; A.B., Dickinson, 1919; A.M., *ibid.*, 1921. Constitutional History of Pennsylvania, with Special Reference to Taxation. *Cornell*.
- Yale K. Kessler; A.B., Ohio Wesleyan, 1925; A.M., Syracuse, 1926. Local Government in Pennsylvania. *Ohio State*.
- Angus Mackenzie Laird; A.B., Florida, 1927; A.M., *ibid.*, 1928. The Party System in Florida. *Chicago*.
- Christian L. Larsen; A.B., Nebraska, 1930; A.M., *ibid.*, 1932. Legislative Investigating Committees and Commissions in California. *California*.
- William Bolland Maddox; A.B., Ohio Wesleyan, 1923; A.M., Cincinnati, 1924. Municipal Home Rule in Ohio. *Michigan*.
- Charles B. Martz; A.B., Yale, 1915; A.M., *ibid.*, 1927. Ohio Politics from 1876 to 1900. *Harvard*.
- Russell McInness; Ph.B., Brown, 1922; LL.B., New York Law School, 1925; A.M., Columbia, 1929. Executive Leadership in Legislation in New York State. *Columbia*.
- Oliver J. McKay; A.B., Montana, 1924. Labor and Politics in New York City. *Columbia*.
- Dayton D. McKean; A.B., Colorado, 1927; A.M., *ibid.*, 1929. Pressure Groups before the New Jersey State Legislature. *Columbia*.
- L. V. Michelmore; A.B., California, 1930; A.M., Harvard, 1932. The Metropolitan Problem in Massachusetts. *Harvard*.
- David G. Monroe; B.S., Baldwin and Wallace, 1930. The Police Problem of the Chicago Metropolitan Area. *Northwestern*.
- William F. Nowlin; A.B., Howard, 1919; A.M., Ohio State, 1930. Legislative Investigating Committees in Ohio, 1919-1934. *Ohio State*.
- Glenn W. Rainey; A.B., Emory, 1928; A.M., *ibid.*, 1929. The Negro in Georgia Politics since Reconstruction. *Northwestern*.
- Edward E. Reilley; A.B., Princeton, 1933; LL.B., Georgetown, 1926. The Justice of the Peace in New Jersey. *Princeton*.
- Lawrence M. Rogin; A.B., Columbia, 1929; A.M., *ibid.*, 1931. Labor and Politics in Pennsylvania. *Columbia*.
- John Clifford Russell; A.B., New Mexico, 1930; A.M., *ibid.*, 1931. State Sectionalism in New Mexico. *Stanford*.
- Josiah L. Sayre; A.B., Williams, 1925; M.S., Chicago, 1928; A.M., Michigan, 1933. Bicameralism in Michigan. *Michigan*.
- Victoria Shuck; A.B., Stanford, 1931; A.M., *ibid.*, 1931. Government in California; Its Development and Present Aspects. *Stanford*.
- Dick Smith; A.B., Texas, 1930; A.M., *ibid.*, 1931. Historical Study of the Development of the Organization and Functions of Local Government Units in Texas. *Harvard*.
- Charles F. Spencer; A.B., Oklahoma, 1928; A.M., *ibid.*, 1929. Improvement of Procedure in State Legislatures. *Wisconsin*.
- Florence Spencer; A.B., Texas, 1927; A.M., *ibid.*, 1930. Party Nominations in Texas. *Texas*.
- Earl E. Warner; A.B., Ohio Wesleyan, 1926; A.M., Ohio State, 1929. The Influence of Pressure Groups on Legislation and Administration in Ohio. *Ohio State*.
- Cyrus C. Young, Jr.; A.B., Johns Hopkins, 1933. The Administration of Unemployment Compensation in Maryland. *Johns Hopkins*.
- Robert Martin Young; A.B., Washington, 1930; A.M., *ibid.*, 1932. The Office of Governor in Missouri. *Washington* (St. Louis).

Frederick L. Zimmermann; A.B., Columbia, 1928; A.M., *ibid.*, 1929. Commissions of Interstate Cooperation. *Columbia*.

PUBLIC ADMINISTRATION IN THE UNITED STATES

Dana Mills Barbour; A.B., Washington, 1929; A.M., *ibid.*, 1930. The Recent Growth of the President's Administrative Power through Financial Control. *Stanford*.

Russell William Barthell; A.B., Washington, 1930; A.M., *ibid.*, 1931. Recruiting Government Personnel. *Chicago*.

Ralph J. Burton; A.B., Syracuse, 1932. Public Utilities in the Chicago Area. *Chicago*.

Milton Charin; A.B., California (L.A.), 1929; A.M., California, 1930. A Critical Analysis of the Penal Administration of the State of California. *California*.

Robert W. Cooper; A.B., Abilene Christian College, 1926; A.M., University of Texas, 1932. The Council and Municipal Administration; A Study in Legislative Control. *Chicago*.

Laurence Cramer; A.B., Wisconsin, 1923; A.M., Columbia, 1926. Advisory Committees in Relation to Federal Administration. *Columbia*.

Leslie Engler; B.S. and M.S., Massachusetts Institute of Technology. Administration of Maintenance of Public Buildings. *Columbia*.

Benjamin S. Faber; A.B., New York University, 1930; A.M., *ibid.*, 1931. The Relationship between Tax Administration and Legislation. *New York University*.

Annette Baker Fox; A.B., Chicago, 1934. The Administration of Public Housing. *Chicago*.

Norman N. Gill; Ph.B., Chicago, 1932. Public Personnel Problems in Metropolitan Chicago. *Chicago*.

Mcure L. Goldschmidt; A.B., Reed, 1930; A.B., Oxford, 1933. Public Relations in Municipal Administration. *Chicago*.

Clarence L. Hodge; B.Ed., Southern Illinois State Normal; A.M., Illinois. Tennessee Valley Authority; A National Experiment in Regionalism. *American*.

Paul C. Howard; A.B., Brown, 1935. Government Agencies, Employment and Unemployment; the Relation of Government, Particularly of Unemployment Compensation and Employment Service Agencies to Employment and Unemployment. *Harvard*.

Dayton W. Hull; A.B., Harvard, 1935. The Problems of Administration and Coordination Connected with the Federal Bureau of Motor Carriers. *Harvard*.

Justus M. Hull; B.S., Chicago, 1922; A.M., Columbia, 1931. Subsidies to Education under Present Conditions. *Pennsylvania*.

Clifford J. Hynning; A.B., Chicago, 1934. State Planning Trends in the Government of Resources. *Chicago*.

Victor Jones; A.B., Howard College, 1932. The Integration of Local Government in the Larger Metropolitan Areas. *Chicago*.

Arthur Kruse; A.B., Akron, 1930; A.M., Syracuse, 1931. A Study of the Administration of Outdoor Relief in Syracuse and Onondaga County. *Syracuse*.

Ambrose H. Kunkemueller; A.B., New York University, 1933; A.M., Columbia, 1934. Regional Adjustments in Water Supply, with Special Reference to Northern New Jersey. *Columbia*.

W. Avery Leiserson; A.B., Illinois, 1934. Interest Representation in Administrative Agencies. *Chicago*.

Gilbert G. Lentz; B.Ed., Southern Illinois Teachers' College, 1931; A.M., Illinois, 1932. The Enforcement of the Orders of State Public Service Commissions. *Illinois*.

- Leslie M. Lipson*; A.B., Oxford, 1935. *The American Governor and State Reorganization*. *Chicago*.
- Fordyce W. Luikart*; A.B., Ohio Wesleyan, 1933. *Federal and State Regulation of Gambling*. *Syracuse*.
- Oscar M. Lurie*; A.B., Harvard, 1935. *A Critical Study of the Procedures and Techniques of the United States Employment Service*. *Harvard*.
- Evelyn Armisted Maurer*; A.B., Northwestern, 1927; A.M., *ibid.*, 1928. *Governmental Regulation of the Interstate Distribution of Public Utility Products*. *Northwestern*.
- James L. McCamy*; A.B., Texas, 1929; A.M., *ibid.*, 1932. *Public Relations in Governmental Administration*. *Chicago*.
- Marjorie McGillicuddy*; A.B., Wellesley, 1922; A.M., Columbia, 1934. *Public Opinion Concerning the Merit System in American Civil Service*. *Columbia*.
- Fred E. Merwin*; A.B., Ohio Wesleyan, 1929; A.M., Wisconsin, 1935. *Public Relations in Selected Wisconsin Administrative Departments*. *Wisconsin*.
- Charles E. Mills*; A.B., Illinois, 1929; A.M., Wisconsin, 1933. *The C.W.A. as Unemployment Relief in Wisconsin*. *Wisconsin*.
- Julian Morgan*; A.B., Illinois, 1934; A.M., *ibid.*, 1935. *The Development of Administrative Discretion under the State Security Laws*. *Illinois*.
- John Samuel Myers*; A.B., Washington, 1935; A.M., *ibid.*, 1936. *The Merit System in St. Louis*. *Washington* (St. Louis).
- Charles Prince*; B.S., St. Louis University, 1930; M.S., Washington, 1932. *Development of Public Welfare Administration in the United States, 1905-1914*. *Chicago*.
- Arthur W. Roehm*; A.B., Baldwin-Wallace, 1929. *Secretary Hoover as a Departmental Administrator*. *Harvard*.
- Evelyn M. Seufert*; A.B., New Jersey College for Women; A.M., Columbia, 1928. J.D., New York University, 1930. *The Nature and Scope of the Administrative Function of the National Government*. *New York University*.
- Ralph H. Smith*; A.B., Union, 1929. *Federal Emergency Relief Administration in Baltimore County*. *Johns Hopkins*.
- George C. Squier*; A.B., Columbia, 1935. *Municipal Housing*. *Columbia*.
- Audley H. F. Stephen*; A.B., Princeton, 1922; A.M., Pennsylvania, 1935. *The Relationship between Cost Accounting and Public Budget-Making*. *Pennsylvania*.
- Ward Stewart*; A.B., Carleton, 1933; A.M., Chicago, 1934. *Personnel Administration in the Tennessee Valley Authority*. *Harvard*.
- Harold F. Sylvester*; *The Council-Manager Government in Operation in Flint, Michigan: A Study in Municipal Administration*. *Johns Hopkins*.
- John J. Theobald*; A.B., Columbia, 1925; B.S., *ibid.*, 1928. *Next Steps in the Development of Highway Administration in New York State*. *Columbia*.
- Mary C. Trackett*; A.B., A.M., Wisconsin, 1935. *Interdepartmental Committees in the Federal Government*. *Columbia*.
- David B. Truman*; A.B., Amherst, 1935; A.M., Chicago, 1936. *The Management of Mixed Enterprises*. *Chicago*.
- Robert Walker*; A.B., Chicago, 1934. *Administrative Organization, Practices, and Problems in City Planning*. *Chicago*.
- G. Edward Walther*; A.B., California (L.A.), 1933. *The Radio Industry and the Development of the Public Interest*. *Yale*.
- Donald Ward*; A.B., Syracuse, 1935. *Legal Regulations Since Repeal of the Eighteenth Amendment*. *Syracuse*.
- Robert Lyle Webster*; A.B., North Dakota, 1926; M.S., Columbia, 1929. *Public Relations in the Agricultural Adjustment Administration*. *American*.

Glenn Willsey; A.B., Nebraska Wesleyan, 1930; A.M., Nebraska, 1931. Administrative Standards. *Chicago*.

Anthony W. Woodmansee; A.B., Reed, 1928; A.M., Oregon, 1930. The Radio Commission. *Harvard*.

FOREIGN AND COMPARATIVE GOVERNMENT AND POLITICS

Haig G. Abdian; A.B., Harvard, 1926. French Political Parties in the Region of Paris (1870-1933). *Harvard*.

John C. Adams; A.B., Northwestern, 1932. The Resolution of Labor Conflicts in the Italian Corporative State. *Chicago*.

Willard F. Barber; A.B., Stanford, 1928; A.M., *ibid.*, 1929. Control of Foreign Policy in Spanish Government. *Columbia*.

Wilson T. M. Beale; A.B., Princeton, 1931; M.B.A., Pennsylvania, 1933. The British Tariff. *Pennsylvania*.

Everett M. Clasp; A.B., Michigan, 1927; A.M. Chicago, 1930. A Comparative Study of Changes in the Political Composition of European Parliaments since 1870. *Chicago*.

D. C. Corbitt; A.B., Asbury, 1923; A.M., Emory, 1926. The Colonial Government of Cuba. *North Carolina*.

E. DeHass; A.B., Hunter, 1923; A.M., Columbia, 1925. The Bail System in England. *Columbia*.

Kirion A. Doukas; B.S., Columbia; J.D., New York University; A.M., Columbia, 1937. The State in Business in France. *Columbia*.

Leon Hubbard Ellis; A.B., Stanford, 1914; LL.B., Washington, 1921. The Nationalist Party in China, or the Kuomintang. *Washington* (Seattle).

Barbara A. Gano; A.B., Wheaton, 1931; A.M., Radcliffe, 1933. International Protection of Human Life and Personality. *Radcliffe*.

Willard Winchell Grant; B.S., Northwestern, 1930. Political Cleavages in Spain. *Northwestern*.

J. Elizabeth Hannan; A.B., Bryn Mawr, 1934; A.M., Radcliffe, 1935. Transition Forms of Government in Colonial Dependencies. *Radcliffe*.

Winchester Hallock Heicher; A.B., Stanford, 1930. Great Britain and Naval Disarmament. *New York University*.

Richard Edwards Hibbard; B.E., Eau Claire State Teachers' College, 1932; A.M., Northwestern, 1933. Free Zones in the Balkan States. *Northwestern*.

Frank H. Jonas; A.B., Utah, 1928. The One-Party System in the Technique of the Authoritarian State. *Washington* (Seattle).

Nicholas Kaetchas; A.B., Robert College (Constantinople), 1914. Nationalism and Constitutionalism in Modern Greece. *Columbia*.

Willmoore Kendall; A.B., Oklahoma, 1927; A.M., Northwestern, 1928; B.A. (Oxon). The Federal System in Mexico. *Illinois*.

Rose E. Kluger; A.B., Hunter, 1928; A.M., Columbia, 1929. British Imperialism in the Light of East Indian Famines. *Columbia*.

Gérhard Krebs; German Higher School of Politics, 1932. The Deutsche Länderkonferenz, 1928-1930, and the Problem of Federal Reform in Germany. *California*.

Robert S. Levillain; B.E.S., University of Caen, France, 1924. European Politics from 1929: The French Point of View. *Harvard*.

Dean E. McHenry; A.B., California (L.A.), 1932; A.M., Stanford, 1933. Structure and Problems of the British Labor Party, 1931-1936. *California*.

Raymond G. McKelvey; A.B., Cornell, 1930; A.M., Claremont, 1931. The Propaganda Methods of British Political Parties. *Columbia*.

- John F. Miller*; A.B., Illinois, 1929; A.M., *ibid.*, 1930. The German Civil Service. *Columbia*.
- Helen Sands Nelson*; A.B., Radcliffe, 1929. The Role of the German Social Democratic Party in Determining Influence upon the Conduct of Foreign Affairs. *Radcliffe*.
- Terence H. O'Brien*; A.B., Oxford, 1926; A.M., *ibid.*, 1932. Theory and Practice of the English Liberal Party, 1905-1915. *Harvard*.
- Benedict Nolan Prieth*; A.B., Stanford, 1931; A.M., *ibid.*, 1932. The German Labor Front. *Stanford*.
- Guy W. Ross*; A.B., Chicago, 1901; LL.B., Harvard, 1904; A.M., Minnesota, 1935. The Nature of Federalism in the United States and Australia; A Comparative Study. *Minnesota*.
- Sanford Schwarz*; A.B., College of the City of New York, 1924; A.M., Columbia, 1925. Article 48 of the Weimar Constitution. *Columbia*.
- Robert B. Stewart*; A.B., Kentucky, 1931; A.M., *ibid.*, 1932. Treaty Relations of the British Commonwealth. *Harvard*.
- James Alvin Storing*; A.B., Iowa State Teachers' College, 1927; A.M., Iowa, 1931. Constitutional Government in Norway. *Iowa*.
- I-Mien Tsiang*; A.B., Ohio Wesleyan, 1931. The Doctrine of Allegiance. *Johns Hopkins*.
- William C. White*; A.B., Princeton, 1923; A.M., Pennsylvania, 1925. The Government of Soviet Russia. *Pennsylvania*.

INTERNATIONAL ORGANIZATION, POLITICS, AND LAW

- Jessie E. Ashworth*; A.B., Maine, 1929; A.M., Clark, 1930. Sino-American Relations, 1908-1913. *Clark*.
- Francis Elton Atwater*; A.B., Rochester, 1934; A.M., American, 1936. Embargoes—A Problem in Administration. *American*.
- Eric L. Barr*; United States Naval Academy, 1911; United States Naval War College, 1934. The International Regulation of Naval Armaments. *Washington* (Seattle).
- Benjamin Bock*; B.S., College of the City of New York, 1930; A.M., George Washington, 1934. The Inter-Allied Intervention in Eastern Asia, 1919-1923. *Stanford*.
- Marion Boggs*; A.B., Missouri, 1931; A.M., *ibid.*, 1932. The Distinction between Aggressive and Defensive Armaments. *Chicago*.
- George Herbert Bowers*; A.B., Nebraska, 1926; A.M., *ibid.*, 1928. Transfers of African Territory. *Chicago*.
- Edward H. Buehrig*; Ph.B., Chicago, 1932. The Procedure of American Entry into International Organizations. *Chicago*.
- Gwendolen M. Carter*; A.B., Toronto, 1929; A.B., Oxford, 1931; A.M., *ibid.*, 1935; A.M., Radcliffe, 1936. The Policy of the British Dominions in the League in Regard to Disarmament and Security. *Radcliffe*.
- Manuel T. Cases*; A.B., California, 1932; A.M., *ibid.*, 1933. Development of the Filipino Independence Movement and Its International Significance. *California*.
- Elliot Cassidy*; A.B., Illinois, 1934; A.M., *ibid.*, 1935. Denial of Justice as a Concept of International Law. *Illinois*.
- J. C. Ching*; A.B., Yenching University, 1927; A.M. *ibid.*, 1932; A.M., Princeton, 1934. The International Relations of Tibet. *Chicago*.
- Henry Den*; A.B., Southwestern College, 1934; A.M., Illinois, 1936. The Activities of the League of Nations in the Promotion of International Commercial Relations. *Illinois*.

- John C. DeWilde; S.B., Harvard, 1930. International Control of the Production and Marketing of Agricultural Staples. *Columbia*.
- Charles W. Duhiig; A.B., Harvard, 1929; A.M., *ibid.*, 1932. Russo-German Tariff Relations with their Political Aspects, 1892-1905. *Harvard*.
- Alexander Taylor Edelmann; A.B., Davidson College, 1930; A.M., North Carolina, 1935. The Influence of Copper on International Relations. *Illinois*.
- Imogene Ellis; A.B., Montana, 1928; A.M., Columbia, 1936. The Law and Practice of International Extradition as Applied by the United States. *American*.
- Walter W. Engelke; A.B., Wisconsin, 1929; A.M., *ibid.*, 1930. Participation of the United States in International Conferences, 1921-1931. *Wisconsin*.
- Henrietta H. Fernitz; A.B., Northwestern, 1934; A.M., *ibid.*, 1936. American Cooperation in Administration of International Public Health. *Northwestern*.
- Clayton D. Ford; A.B., Minnesota, 1929; A.M., *ibid.*, 1930. The Open Door Doctrine in Sino-British Relations. *Minnesota*.
- William T. R. Fox; B.S., Haverford, 1932; A.M., Chicago, 1934. Some Effects of National Planning on International Relations. *Chicago*.
- Theodore I. Geshkoff; A.M., Columbia, 1927. The Balkan Conference; A Study in Regional International Organization. *Columbia*.
- Meredith Gilpatrick; Ph.B., Chicago, 1925; LL.B., Southern California, 1928. The Military Strategy on the Western Front from 1871-1914. *Chicago*.
- Welles A. Gray; A.B., Minnesota, 1923; A.M., *ibid.*, 1924. The International Sanction. *Harvard*.
- Gladys Gregory; A.B., Southwestern (Texas), 1915; A.M., Texas, 1926. "El Chamizal": A Boundary Dispute between the United States and Mexico. *Texas*.
- Solly A. Hartzo; A.B., Washington and Lee, 1921; A.M., Columbia, 1924. The Parties to Treaties. *Chicago*.
- L. Wendell Hayes; A.B., Bates, 1931. American Proposals for Maintaining Neutrality during the World War. *Chicago*.
- Jerry Housel; A.B., Wyoming, 1936; LL.B. *ibid.*, 1936. The "Interest" of Wyoming in International Affairs. *American*.
- Dorothy Houston; B.S. and A.M., Minnesota, 1928. Intervention in the Theory and Practice of Japan. *Minnesota*.
- Richard W. Jennings; A.B., Park College, 1927; A.M., Pennsylvania, 1933. The Bering Sea Arbitration; A Study of the International Judicial Process. *California*.
- Ronald S. Kain; A.B., Montana, 1922. The Chaco Dispute. *Columbia*.
- William M. Keenlyside; A.B., British Columbia, 1934; A.M., Clark, 1935. British Policy in China, 1922-1931. *Clark*.
- Arthur S. Keller; B.S., College of the City of New York, 1930; A.M., Columbia, 1935. Chinese Relations with the South Pacific Area. *Columbia*.
- Herman Kirchhoff; A.B., A.M., Southern California. Relations between the United States and Germany, 1871-1901. *Southern California*.
- Donald Edward Van Koughnet; A.B., Minnesota, 1928; A.M., *ibid.*, 1929. The Council of the League of Nations with Special Reference to Procedure. *Harvard*.
- Perry Laukhuff; A.B., Otterbein, 1927; A.M., Harvard, 1928. The Central American Court of Justice, 1907-1918. *Harvard*.
- Don B. Leiffer; A.B., California, 1930; A.M., Harvard, 1932. Article 36 of the Statute of the Permanent Court of International Justice. *Harvard*.
- Robert M. Loomis; A.B., Greenville College, 1927. The Achievement of Political Autonomy within a Legal Order. *Wisconsin*.
- Wilbur Lee Mahaney, Jr.; A.B., Richmond, 1924; A.M., Virginia, 1927. Soviet-League Relations. *Pennsylvania*.

- John Fremont Melby*; A.B., Illinois Wesleyan, 1934. Economic Relations between the United States and Brazil. *Chicago*.
- Masayoshi Morino*; A.B., California, 1933; A.M., *ibid.*, 1934. The Stimson Doctrine of Non-Recognition in American-Japanese Relations. *California*.
- Ernest K. Moriwake*; A.B., Harvard, 1926; A.M., *ibid.*, 1927. Relation of Peace Treaties to Preexisting Treaties. *Harvard*.
- Richard M. Perdev*; A.B., Swarthmore, 1926; Institut Universitaire de Hautes Etudes, Int. Diplome, 1929. Diplomatic Consequences of Economic Nationalism. *Chicago*.
- Paul Ritterskamp*; A.B., Indiana, 1926. The Effect of Economic Penetration in Foreign Affairs. *Chicago*.
- William J. Ronan*; A.B., Syracuse, 1934. The Status of Belligerency in Modern International Law. *New York University*.
- A. G. Ronhovde*; A.B., St. Olaf; A.M., North Dakota. Problems of Nationality in Adjudications before International Tribunals. *Columbia*.
- D. V. Sandifer*; A.B., Eureka, 1924; A.M., Columbia, 1928. Evidence in Cases before International Arbitral Tribunals. *Columbia*.
- Giovanni Shiavo*; A.B., Johns Hopkins, 1919. Italian Concepts of International Arbitration. *Columbia*.
- James Simsarian*; A.B., California (L.A.), 1930; A.M., Columbia, 1934; LL.B., Columbia, 1937. International Waterways. *Columbia*.
- Waldo E. Stephens*; A.B., Ohio Wesleyan, 1920. The Revisionary Provisions of the Versailles Treaty. *Columbia*.
- Thomas Leland Stock*; A.B., Stanford, 1927. Membership in the League of Nations. *Stanford*.
- Paul Bennett Taylor*; A.B., Doane, 1927; A.M., Columbia, 1930. Execution of Treaties in the United States. *Columbia*.
- Mary Mangigian Terzian*; B.S., Pennsylvania, 1927; A.M., *ibid.*, 1929. The Status of Armenia in International Law. *Pennsylvania*.
- James Anderson Totton*; A.B., California, 1930; A.M., *ibid.*, 1931. The Law of Recognition and the New Conception of Neutrality. *California*.
- Wei Ping Tsai*; B.S., Nanking University, 1933; A.B., *ibid.*, 1935; A.M., Illinois, 1936. The Russo-Japanese Conflict in the Far East. *Illinois*.
- William Verhage*; A.B., Lawrence, 1928; A.M., Oberlin, 1929. The Theory and Practice of International Cooperation, with Particular Reference to International Financial Relations with and concerning China after 1895. *Minnesota*.
- James Thomas Watkins, VI*; A.B., Stanford, 1929; A.M., *ibid.*, 1934. China in the League of Nations. *Stanford*.
- Thomas B. Wenner*; A.B., Oberlin, 1926; A.M., New York University, 1927. Progress of International Organization of Migration as a Factor in the Relations between States. *Cornell*.
- Carlow F. Wieman*; LL.B., Suffolk Law School, 1929; A.M., Harvard, 1931. South American Rivers of International Concern in International Law. *Harvard*.
- J. H. Williams*; A.B., Washington and Lee, 1924; A.M., *ibid.*, 1928. United States Delegations to International Conferences. *North Carolina*.
- John E. Williams*; A.B., St. Viator College, 1923; A.M., Catholic University, 1929. The Status of Aliens in International Law. *Illinois*.
- Bryce Wood*; A.B., Reed, 1931; A.M., *ibid.*, 1933. Colonial Reapportionment and Equality of States. *Columbia*.
- Susanna W. P. Zwemer*; A.B., Columbia, 1919; A.M., Northwestern, 1927. African Mandates of the League of Nations. *Northwestern*.

MISCELLANEOUS

Edward Johnston; A.B., Manhattan, 1928; A.M., Columbia, 1931. The National Catholic Welfare Council. *Columbia*.

Harvey Lebrun; A.B., Temple, 1912; A.M., Pennsylvania, 1914. Social Treatment of Old Age Dependency in the State of New York. *Stanford*.

Frances Lillian Reinhold; A.B., Swarthmore, 1932; A.M., Pennsylvania, 1936. History of Political Exiles and Refugees from Oppression that Have Sought Asylum in the United States and that Have Fled from the United States. *Pennsylvania*.

James P. Rowland; A.B., Pennsylvania State College, 1927; A.M., *ibid.*, 1931. The Protection of the Worker in his Job. *Pennsylvania*.

John I. Wright; A.B., Boston University, 1926; A.M., Harvard, 1931. The Administration of the Financial System of Ponthiey, 1279-1369. *Harvard*.

RECENT PUBLICATIONS OF POLITICAL INTEREST BOOKS AND PERIODICALS

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AMERICAN GOVERNMENT AND PUBLIC LAW

Books

- Agrafiotis, C. J.* comp. Preserve, protect, and defend. Pp. 223. Manchester (N.H.): New Idea Pub. Co. 1937.
- Alfange, Dean.* The supreme court and the national will. Pp. 310. Garden City (N.Y.): Doubleday. 1937.
- Alword, Ellsworth C., and Others.* How shall business be taxed? Pp. 160. N.Y.: Tax Policy League, Inc. 1937.
- Ambler, Charles H.* Francis H. Pierpont: union war governor of Virginia. Pp. 496. Chapel Hill (N.C.): Univ. of N.C. 1937.
- Brebner, John B.* The neutral Yankees of Nova Scotia. Pp. 403. N.Y.: Columbia Univ. Press. 1937.
- Brunner, Edmund de Schweinitz, and Lorge, Irving.* Rural trends in depression years; a survey of village-centered agricultural communities, 1930-1936. Pp. 403. N.Y.: Columbia Univ. Press. 1937.
- Bundy, R. D.,* Collective bargaining. Pp. 43. N.Y.: Nat. Foremen's Inst. 1937.
- Childs, Charles.* The Oregon legislature. Pp. 80. Portland (Ore.): Metropolitan Press. 1937.
- Childs, Marquis W.* Washington calling. Pp. 280. N.Y.: Morrow. 1937.
- Crosby, Percy.* Essay on Roosevelt's second inaugural address. Pp. 47. McLean (Va.): Freedom Press. 1937.
- Cross, Wilbur L.* Proclamations of his excellency Wilbur L. Cross, governor of state of Connecticut. Pp. 94. Hartford (Conn.): Prospect Press. 1937.
- Douty, H. M.* Wage and hour legislation for the south. Pp. 26. Chapel Hill (N.C.): Univ. of N.C. Press. 1937.
- Epstein, Abraham.* Social security. Pp. 38. N.Y.: League for Indus. Democ. 1937.
- Feinstein, Isidor.* The court disposes. Pp. 127. N.Y.: Covici, Friede. 1937.
- Feldman, Herman.* Problems in labor relations. Pp. 392. N.Y.: Macmillan. 1937.
- Fraenkel, Osmond K.* The supreme court and civil liberties. Pp. 47. N.Y.: Am. Civil Liberties Union. 1937.
- Gardner, Oliver Max.* Public papers and letters of Oliver Max Gardner. Pp. 788. Raleigh (N.C.): Council of State. 1937.
- Hamilton, Walton H., and Adair, Douglass.* The power to govern; the constitution then and now. Pp. 254. N.Y.: Norton. 1937.
- Hendrick, Burton J.* Bulwark of the republic; a biography of the constitution. Pp. 495. Boston: Little, Brown. 1937.
- Johnsen, Julia E.* Industrial versus craft unionism. Pp. 320. N.Y.: H. W. Wilson. 1937.
- Johnson, Claudius O.* Government in the United States. Rev. ed. N.Y.: Crowell. 1937.
- Kahn, Dorothy C.* Unemployment and its treatment in the United States. Pp. 105. N.Y.: Am. Assoc. of Social Workers. 1937.
- Merritt, Walter Gordon, and Schwellenbach, Lewis B.* How should the government deal with the labor problem? Pp. 30. N.Y.: Am. Book. 1937.

Nourse, Edwin G., and Others. Three years of the AAA. Pp. 600. Wash.: Brookings Inst. 1937.

Pearson, Drew, and Allen, R. S. Nine old men at the crossroads. Pp. 57. Garden City (N.Y.): Doubleday. 1937.

Ramsay, M. L. Pyramids of power; the story of Roosevelt, Insull, and the utility wars. Pp. 342. Indianapolis: Bobbs-Merrill. 1937.

Reis, B. J. False security; the betrayal of the American investor. Pp. 377. N.Y.: Equinox Corp. Press. 1937.

Ribble, F. D. G. State and national power over commerce. Pp. 278. N.Y.: Columbia Univ. Press. 1937.

Roos, Charles F. N.R.A. economic planning. Pp. 610. Bloomington (Ind.): Principia Press. 1937.

State compacts. Pp. 21. Wash.: Chamber of Commerce of the U. S. 1937.

Stewart, M. S. Social security. Pp. 320. N.Y.: Norton. 1937.

Van Osdel, J. A. Sketches from our constitutional history. Pp. 115. Boston: Christopher. 1937.

Wolfson, Theresa, and Weiss, Abraham. Industrial unionism in the American labor movement. Pp. 51. N.Y.: League for Indus. Democ. 1937.

Articles

Administration. The use of lay boards by official health agencies. *Olivia Peterson.* Am. Jour. of Pub. Health. May, 1937.

———. Monthly financial reports for the administrator. *Carl H. Chatters.* Pub. Management. May, 1937.

———. Principles of accountancy legislation. *Charles H. Towns.* Jour. of Accountancy. June, 1937.

———. Reorganization of the general accounting office. *John McDiarmid.* Am. Pol. Sci. Rev. June, 1937.

Administrative Law. Administrative law: licensing as a method of destroying the chain store. Ill. Law Rev. Apr., 1937.

———. The "jurisdictional fact" theory and administrative finality. *Forest R. Black.* Cornell Law Quar. Apr., 1937.

———. Administrative justice. *J. E. Barraclough.* Pub. Admin. Apr., 1937.

Agriculture and Land Policy. Farm tenancy in the United States. *Karl Brandt.* Social Research. May, 1937.

———. Land use readjustments in the northern great plains. *Sherman E. Johnson.* Jour. of Land and Pub. Util. Econ. May, 1937.

———. Farm problems and legislation. *Robert Clay.* Communist. May, 1937.

Banking. The farmer's banking system: four years of FCA operations. *J. K. Galbreith.* Harvard Bus. Rev. Spring, 1937.

———. The federal reserve system and low interest rates. *Newton D. Alling.* Bankers Mag. May, 1937.

Bankruptcy. Aspects of the Chandler bill to amend the bankruptcy act. *J. A. McLaughlin.* Univ. of Chicago Law Rev. Apr., 1937.

———. The Chandler bill. *Jacob M. Lashly.* Va. Law Rev. June, 1937.

———. Bankruptcy reform and the Chandler bill. Yale Law Jour. May, 1937.

Constitutional Law. Constitutional law—power of states to regulate manufacture and sale of liquor under the twenty-first amendment. N.Y. Univ. Law Quar. Rev. Mar., 1937.

———. Some recent proposals for constitutional amendments. *Jane Perry Clark.* Wis. Law Rev. Apr., 1937.

- . The minimum wage decision. Recent gold clause decisions in the supreme court and the house of lords. *U. S. Law Rev.* Apr., 1937.
- . Acts of congress declared unconstitutional by supreme court. *Wash. Law Rev.* Apr., 1937.
- . Constitutional jurisdiction over tangible chattels. *R. A. Leflar. Mo. Law Rev.* Apr., 1937.
- . The supreme court, the constitution, and the A.A.A. *Robert L. Howard. Ky. Law Jour.* May, 1937.
- . Due process clause as a safeguard against multiple state taxation. *L. R. Smith. Jour. of Bar Assoc. of Kan.* May, 1937.
- . The supreme court and the rights and interests of labor. *John H. Crooker. Am. Bar Assoc. Jour.* June, 1937.
- . Full Faith and Credit. Administrative determinations and full faith and credit. *A. S. Abel. Ia. Law Rev.* Mar., 1937.
- . Constitutional law: full faith and credit to foreign statute making misrepresentation in insured's application material as a matter of law. *F. C. Heath, Jr. Cornell Law Quar.* Apr., 1937.
- . Validity of foreign divorces in Missouri. *C. D. Todd, Jr. Mo. Law Rev.* Apr., 1937.
- . Governmental Immunity. State taxation of federal "proprietary" instrumentalities. *D. S. M. Temple Law Quar.* Apr., 1937.
- . Potential limitations of the immunity of federal agencies from state taxation. *R. M. J. Va. Law Rev.* June, 1937.
- . Personal Guarantees. Constitutional law—civil liberties—validity of state statutes restricting right of assembly of radical organizations. *Columbia Law Rev.* May, 1937.
- . Equal protection: power of appointment. *G. D. Bleicken.* Validity of New York statute outlawing actions for alienation of affections, criminal conversation, seduction, and breach of contract to marry. *A. M. Lebow.* Civil rights and liabilities as affected by violation of statute prohibiting unlicensed driver to operate motor vehicle. *B. H. Davis.* Double jeopardy in Massachusetts. *Edward M. Dangel. Boston Univ. Law Rev.* Apr., 1937.
- . Criminal law: comment on failure of accused to testify. *E. M. Shealy. Wis. Law Rev.* Apr., 1937.
- . Civil rights: freedom of speech. *William D. McCain.* Constitutional law: non-unanimous verdict by jury. *Harold D. Cohen. Cornell Law Quar.* Apr., 1937.
- . Price Control. Legislation—milk control statutes. *N.Y. Univ. Law Quar. Rev.* Mar., 1937.
- . Price regulation: recent applications of the Nebbia doctrine. *Herbert T. Brunn. Cornell Law Quar.* Apr., 1937.
- . The constitutional significance of early Pennsylvania price-fixing legislation. *R. C. Bull. Temple Law Quar.* Apr., 1937.
- . Supreme Court. The incidence of judicial control over congress. *Henry W. Edgerton. Cornell Law Quar.* Apr., 1937.
- . The supreme court catches up with the nation. *Murray G. Lee. U. S. Law Rev.* Apr., 1937.
- . What lawyers think of supreme court proposal. The American bar and supreme court proposal. *F. H. Stinchfield. Wash. Law Rev.* Apr., 1937.
- . The constitution and the embattled court. *G. R. Farnum.* The supreme court and the unwritten law. *Edward A. Harriman. Boston Univ. Law Rev.* Apr., 1937.

———. Politics and the supreme court: President Roosevelt's proposal. *Alpheus Thomas Mason*. Disturbing the balance. *Thomas Raeburn White*. Univ. of Pa. Law Rev. May, 1937.

———. The subjection of judges to the executive; an exhaustive experience. *Henry Selden Bacon*. Va. Law Rev. May, 1937.

———. Reorganization of the supreme court. *D. O. McGorvey*. Calif. Law Rev. May, 1937.

———. Have historians neglected the supreme court? *W. T. Mitchell*. Social Studies. May, 1937.

———. The president's plan respecting the supreme court. *I. M. Wilkinson*. Fordham Law Rev. May, 1937.

———. This supreme court muddle. *M. E. Tracy*. America talks court. *Richard L. Neuberger*. Current Hist. May, June, 1937.

———. Neutral opinion on the court proposal. *Elmo B. Roper, Jr.* Pub. Opinion Quar. July, 1937.

———. Split decisions in the supreme court in invalidating federal and state enactments and attempted exercises of power, 1933-37. *C. J. Shearn, Jr.* Junior bar conference's view of supreme court proposal. *P. F. Hannah*. Members and non-members of American Bar Association take same stand on court issues. *W. L. Ransom*. Defense of our constitutional system. *W. F. Dodd*. Bill for reforming the supreme court. *F. H. Sommer*. The constitutional crisis: the case for a synthetic solution. *C. S. Collier*. A reply. *T. S. Arnold*. Am. Bar. Assoc. Jour. May, 1937.

———. The present situation in the fight to save the court. *Sylvester C. Smith, Jr.* President's proposals with respect to the federal court. *Joan C. Knox*. The supreme court and the president's proposal. *Theodore Francis Green*. Am. Bar Assoc. Jour. June, 1937.

———. The American lawyer's part in the supreme court controversy. *C. A. Beardsley*. Jour. of the Bar Assoc. of Kan. May, 1937. Tenn. Law Rev. June, 1937.

———. Supreme: court or people? *Charles E. Clark*. Am. Scholar. Spring, 1937.

———. The supreme court issue. *Grenville Clark*. Yale Rev. Summer, 1937.

———. State. Excise taxes and the uniformity clause of the constitution of Kentucky. *E. G. Trimble*. Ky. Law Jour. May, 1937.

———. Constitutionality of the fee system of justices of the peace. *H. C. Simpson*. Tenn. Law Rev. June, 1937.

———. Amending the Louisiana constitution. *Alden L. Powell*. Southwestern Soc. Sci. Quar. June, 1937.

Debts. Legislative relief for the mortgage debtor; a continuing problem. *M. P. Temple* Law Quar. Apr., 1937.

———. Two decades of state borrowing. *Edna Trull*. Nat. Munic. Rev. June, 1937.

———. Twenty-two years of debt. *Richard Dana Skinner*. No. Am. Rev. Summer, 1937.

Education. How to wreck your schools. *Millon S. Mayer*. Forum. May, 1937.

———. Adult education. *Francis J. Brown* and *Others*. Jour of Educ. Sociol. May, 1937.

Federal System. Reciprocal legislation in the field of criminal law. *Justin Miller*. N.Y. Univ. Law. Quar. Rev. Mar., 1937.

———. National-state coöperation—its present possibilities. *Edward S. Corwin* and *Others*. Am. Law. School Rev. Apr., 1937.

———. Non-resident administrators and diverse citizenship. *E. D. Vliet*. The Brief. May, 1937.

———. Power of the federal government to compel a state government to execute a federal law. *E. S. H. Va. Law Rev.* May, 1937.

———. Compelling the attendance of witnesses from without the state in criminal trials. *M. P. S. Univ. of Pa. Law Rev.* May, 1937.

Finance. Congress and the budget. *Symposium.* June-July, 1937.

Flood Control. What price flood control? *F. M. Patterson.* Pub. Util. Fort. May 27, 1937.

———. Flood control. *James Harmon.* Communist. June, 1937.

Government Corporations. Some problems arising from government corporations. *O. R. McGuire.* Univ. of Pa. Law Rev. June, 1937.

———. The government corporation as an economic institution. *Charles C. Abbott.* Harvard Bus. Rev. Spring, 1937.

Housing. Federal housing responsibility. *William Green.* Am. Federationist. May, 1937.

———. Low-rent housing in the United States. *Charles J. Bushnell.* Sociol. and Soc. Research. May-June, 1937.

———. The housing question—1937. *Sidney Hill.* Communist. June, 1937.

Labor. Labor law: appropriate unit for collective bargaining. *W. T. Little.* Wis. Law Rev. Apr., 1937.

———. Picketing: closed shop. *Frank Cappuccio.* Boston Univ. Law Rev. Apr., 1937.

———. The relative status of the sitdown strike in the development of labor law. *E. S. H. Va. Law Rev.* May, 1937.

———. The Minnesota labor disputes injunction act. *H. L. McClintock.* Minn. Law Rev. May, 1937.

———. Employer interference with lawful union activity. *Columbia Law Rev.* May, 1937.

———. Principles established by the N.L.R.B. *Am. Federationist.* May, 1937.

———. A half-century of legal influence upon the development of collective bargaining. *Calvert Magruder.* Harvard Law Rev. May, 1937.

———. Steel workers on the march. *B. K. Gebert.* Communist. June, 1937.

———. A plan for adjusting labor disputes. *Charles A. Prosser.* Pub. Management. June, 1937.

———. Issues in American industrial relations. *Leo Wolman.* Pol. Sci. Quar. June, 1937.

———. The new labor relations laws. *E. F. Andrews.* N. Y. State Bar Assoc. Bull. June, 1937.

———. C.I.O. vs. A. F. of L. *Paul Brissenden.* Am. Scholar. Spring, 1937.

Legislatures. Requisites of adequate legal training in the legislative process. *Shelden D. Elliott and John F. Sly.* Am. Law School Rev. May, 1937.

———. Lobbying in Nebraska's legislature. *Cortez A. M. Ewing.* Consumer interest groups. *Alice L. Edwards.* Pub. Opinion Quar. July, 1937.

Judiciary. The court of claims act in Illinois. *Univ. of Chicago Law Rev.* Apr., 1937.

———. The attack on the judiciary in Pennsylvania, 1800-1810. *Elizabeth K. Henderson.* Penn. Mag. Apr., 1937.

———. In defense of independent judiciary. *D. A. Fraser.* The Brief. May, 1937.

Merchant Marine. Merchant marine act of 1936. *Ralph L. Dewey.* Am. Econ. Rev. June, 1937.

Mining. Our outmoded mine safety laws. *John B. Andrews.* Am. Labor Legis. Rev. June, 1937.

Monopoly and Competition. The regulation of trade practices by code. *Fred M. Wylic.* Wis. Law Rev. Apr., 1937.

———. Trade morals and regulation; the American scene. *F. I. Schechter.* Fordham Law Rev. May, 1937.

———. Basing point and freight-zone systems under the anti-trust laws. *James R. Withrow, Jr.* Univ. of Pa. Law Rev. May, 1937.

———. The federal aspect of resale price maintenance. *J. E. W.* Va. Law Rev. June, 1937.

———. Price discrimination and price cutting. *Breck P. McAllister and Others.* Law and Contemp. Probs. June, 1937.

———. The Robinson-Patman act and unfair competition. *Pearce C. Kelley.* Southwestern Soc. Sci. Quar. June, 1937.

Montana. The American civil war as a factor in Montana territorial politics. *R. E. Albright.* Pacific Hist. Rev. Mar., 1937.

Pardons. The pardoning power of the chief executive. Fordham Law Rev. May, 1937.

Parties and Elections. Election day in America. Round Table. Dec., 1936.

———. The socialist party convention. *Gene Dennis.* The people's mandate in Minnesota. *Nat Ross.* Communist. May, June, 1937.

———. Class structure, class consciousness, and party alignment. *Cecil C. North.* Am. Sociol. Rev. June, 1937.

———. Summary of the history and present status of preferential voting in state direct primary systems. *O. Douglas Weeks.* Southwestern Soc. Sci. Quar. June, 1937.

———. Campaign funds in the presidential election of 1936. *Louise Overacker.* Am. Pol. Sci. Rev. June, 1937.

———. Was the presidential election of 1900 a mandate of imperialism? *Thomas A. Bailey.* Miss. Valley Hist. Rev. June, 1937.

———. Recent developments in the straw-poll field. *Claud E. Robinson.* Pub. Opinion Quar. July, 1937.

Personalities. "The labor governors." Fortune. June, 1937.

———. John L. Lewis. *Raoul de Roussy de Sales.* Atlantic. June, 1937.

Public Utilities. The concepts of capital and income in the regulation of public utilities. *Joan Bauer.* Accounting Rev. Mar., 1937.

———. Must the power war go on to the bitter end? *G. W. Linsweaver.* The electric tax and rate millstones. *E. R. Abrams.* Sunshine and shadows of a utility commissioner's life. *W. M. Maupin.* The power issue in a nutshell. *C. W. Kellogg.* Pub. Util. Fort. Apr. 29, May 13, 27, 1937.

———. Emergence of contract motor carrier regulation. *John J. George.* Some problems in state regulation of natural gas utilities. *C. Emery Troxel.* Simplification of holding companies under the public utility act of 1935. *Leslie F. Fournier.* Jour. of Land and Pub. Util. Econ. May, 1937.

———. Trends in public and private electric rates. *Rowland Egger.* Pub. Management. May, 1937.

Public Works. Measuring public works activities. *Clarence E. Ridley and Herbert A. Simon.* Pub. Management, June, 1937.

Publicity. Modernizing federal publicity. *Arch A. Mercey.* Error and remedy in WPA publicity. *Lawrence Westbrook.* Public relations—some misconceptions. *Glenn Griswold.* Publicity cards on the table. *Harold F. Strong.* Pub. Opinion Quar. July, 1937.

Radio. Freedom of the air. *Stuart Sprague.* Air Law Rev. Jan., 1937.

Relief. When the relievers took Rome. *William A. Biby*. Kan. Municipalities. Feb., 1937.

———. Eight ways to cut relief costs. *E. K. Titus*. No. Am. Rev. Summer, 1937.

Roosevelt Administration. The president's plan: a defense of the middle way.

Leon Jourlmon and *Albert Williams*. Tenn. Law Rev. June, 1937.

Securities Control. Coöperation with the S.E.C. *Committee on Coöperation with S.E.C.* Jour. of Accountancy. June, 1937.

Social Security. Means tests and responsibility for needy relatives. *P. Ford*. Sociol. Rev. Apr., 1937.

———. Five million unemployed; who will be the victims? *R. F. Bertram*. Agricultural workers and social security act. Am. Federationist. May, 1937.

———. The states make plans for unemployment compensation. *R. Gordon Wagenet*. Nat. Munic. Rev. May, 1937.

———. The old age reserve account; a problem in government finance. *Quar. Jour. of Econ.* May, 1937.

———. State job insurance laws. *George H. Trafton*. Compensation progress in Wisconsin. *Elizabeth Brandeis*. Security for interstate workers. *Joseph B. Chamberlain*. Am. Labor Legis. Rev. June, 1937.

———. Merit rating in unemployment compensation laws. *Clair Wilcox*. Am. Econ. Rev. June, 1937.

T.V.A. TVA as an aid to navigation. *F. M. Patterson*. Pub. Util. Fort. May 13, 1937.

Taxation. Some problems of tax administration. *M. Shafroth*. Broadening the income tax base. *E. M. La Follette, Jr.* Tax exemptions. *L. R. Bloomenthal*. Effective reporting of assessment and tax facts. *J. L. Jacobs*. Tax Mag. May, 1937.

———. Federal taxation vs. corporation law. *George S. Hills*. Wis. Law Rev. Apr., 1937.

———. Taxation: charitable institutions: right to exemptions. *M. Verdun*. Boston Univ. Law Rev. Apr., 1937.

———. State jurisdiction to tax income from foreign lands. *Arthur L. Harding*. Calif. Law Rev. May, 1937.

———. The Illinois taxpayers' "day in court." *Homer F. Carey* and *Daniel M. Schuyler*. Ill. Law Rev. Apr., 1937.

———. The status of homestead tax exemption in the United States. *Alonzo B. May*. Jour. of Land and Pub. Util. Econ. May, 1937.

———. Tax limits appraised. *A. Miller Hillhouse* and *Ronald B. Welch*. N.J. Municipalities. May, 1937.

———. State jurisdiction to tax incomes. *J. Mark Jacobson*. Univ. of Pa. Law Rev. June, 1937.

Texas. The first constitution of Texas, April 17, 1813. *Kathryn Garrett*. Analysis of the work of the general council of Texas, 1835-36. *Ralph W. Steen*. Southwestern Hist. Quar. Apr., 1937.

Trade Agreements. The trade agreement act in court and in congress. *John D. Larkin*. Am. Pol. Sci. Rev. June, 1937.

Transportation. Interstate commerce act: holding company and commodities clause. *Sol M. Linowitz*. Cornell Law Quar. Apr., 1937.

———. The railway labor act. *Jack Johnstone*. Communist. June, 1937.

———. The federal coördinator's contribution to railroad coördination. *W. J. Cunningham*. Harvard Bus. Rev. Spring, 1937.

Welfare. Kansas social welfare service. *John G. Stutz*. Kan. Municipalities. Jan., 1937.

———. Minnesota moves toward welfare reorganization. *A. H. Rosenthal*. Minn. Municipalities. May, 1937.

———. Social legislation in Massachusetts. *P. Frankfeld*. Communist. May, 1937.

FOREIGN AND COMPARATIVE GOVERNMENT

Books

Agres'i, Olivia R. After Mussolini, what? Pp. 48. N. Y.: Italian Hist. Soc. 1937.
Albjerg, Victor L., and Albjerg, Marguerite H. From Sedan to Stresa: Europe since 1870. N. Y.: D. Van Nostrand. 1937.

An American Resident. The twilight of the British monarchy. Pp. 44. London: Secker & Warburg. 1937.

Andrews, C. F. India and Britain: a moral challenge. Pp. 160. London: Student Christian Movement Press. 1937.

Bell, Tom. The British communist party: a short history. Pp. 201. London: Lawrence & Wishart. 1937.

Blachiy, Frederick F., and Oatman, Miriam E. Introduction to comparative government. N. Y.: Farrar & Rinehart. 1937.

Blunt, Sir Edward. The Indian civil service. Pp. 318. London: Faber. 1937.

Bolitho, Hector. King Edward VIII, his life and reign. Pp. 305. London: Eyre & Spottiswoode. 1937.

Bolitho, Hector. Royal progress: one hundred years of British monarchy. Pp. 120. London: Batsford. 1937.

Bürger, Wilhelm. National-sozialismus und Volk. Pp. 16. Köln: Der Treuhänder d. Arbeit f. d. Wirtschaftsgebiet Rheinland. 1935.

Bowman, William D. The story of the bank of England from its foundation to the present day. Pp. 312. London: Jenkins. 1937.

Brons, Johannes. Die Macht des Wortes im Recht. Pp. 20. Freiburg über Stade: J. Brons. 1937.

Chamberlain, Sir Austen. Politics from inside; an epistolary chronicle, 1906-14. Pp. 675. New Haven (Conn.): Yale Univ. Press. 1937.

Champlly, Henry. The road to Shanghai: white slave traffic in Asia. Pp. 256. London: J. Long. 1937.

Chandan, K. S. Les Balkans et la démocratie. Pp. 375. Paris: P. Bossuet.

Chang, C. M. A new government for rural China. Pp. 51. London: Probsthain. 1937.

Coates, W. P., and Coates, Zelda-Kahan. Scenes from soviet life. Pp. 309. N. Y.: International Pub. 1937.

Cole, G. D. H. and Margaret. The condition of Britain. Pp. 471. London: Gollancz. 1937.

Dams, Günter. Das Zwangsgeld nach dem preussischen Polizeiverwaltungsgesetz vom 1. Juni 1931 als strafrechtliches Problem. Pp. 72. Heiligenstadt: Meier. 1936.

Dancy, Eric. Hyde park. Pp. 173. London: Methuen. 1937.

Dingle, Reginald J. Democracy in Spain. Pp. 33. London: Burns, Oates & Washburn. 1937.

Dreyfus, Alfred, and Dreyfus, Pierre. The Dreyfus case. Pp. 327. New Haven (Conn.): Yale, 1937.

Eastman, Max. The end of socialism in Russia. Pp. 46. London: Secker & Warburg. 1937.

Ender, Paul H. Behind the throne. Pp. 320. London: Hodder & Stoughton. 1937.

- Ericson, Eaton E. and Ervid E.* India in revolution. Pp. 50. Chapel Hill (N.C.): Univ. of N.C. Press. 1937.
- Fay, Sir Sam.* The war office at war. Pp. 288. London: Hutchinson. 1937.
- Fischer, Ernst.* Trotsky unmasked. Pp. 48. N.Y.: Workers Library Pubs. 1937.
- Fodor, Eugene,* ed. 1937 in Europe. Pp. 1272. Boston: Houghton. 1937.
- Fong, H. D.* Toward economic control in China. Pp. 91. London: Probsthain. 1937.
- Fraser, Gladys G.* The licensing of boarding homes, maternity homes, and child welfare agencies. Pp. 107. London: Cambridge Univ. Press. 1937.
- Gide, André.* Back from the U.S.S.R. Pp. 121. London: Secker & Warburg. 1937.
- Golding, Claud.* The throne of Britain. Pp. 318. London: Hale. 1937.
- Gorman, Francis J., and Others.* The fate of trade unions under fascism. Pp. 48. N.Y.: Anti-fascist Literature Committee, 1457 Broadway. 1937.
- Hancock, W. K.* Survey of British commonwealth affairs. Vol. 1; Problems of nationality, 1918-1936. Pp. 685. London: Oxford Univ. Press. 1937.
- Harrison, Henry.* Ireland and the British empire, 1937. Pp. 356. London: Hale. 1937.
- It's happening in Spain.* Pp. 31. N.Y.: Int. Labor Defense. 1937.
- Kraft, William.* Christ versus Hitler. Pp. 152. N. Y.: Lutheran Press. 1937.
- Lakhovsky, Georges.* De Moscou à Madrid. Pp. 240. Paris: Hachette. 1937.
- Langdon-Davis, John.* Behind the Spanish barricades. Pp. 241. London: Secker & Warburg. 1937.
- Lasaroff, M. W.* Die volkerrechtliche Entwicklung Bulgariens nach dem Weltkriege. Pp. 205. Berlin u. Bonn: Dümmler. 1937.
- Lichtenberger, Henri.* The third Reich. Pp. 403. N.Y.: Greystone Press. 1937.
- McNeill-Moss, Geoffrey.* The epic of the Alcazar. Pp. 333. London: Rich & Cowan. 1937.
- Magondeaux, O. de.* Les ententes industrielles obligatoires et le corporatisme en France. Paris: Libr. Générale de Droit et de Jurisprudence. 1937.
- Martin, Kingsley.* The magic of monarchy. Pp. 125. N.Y.: Knopf. 1937.
- Maxwell, James A.* Federal subsidies to the provincial governments of Canada. Pp. 295. Cambridge (Mass.): Harvard Univ. Press. 1937.
- Midgley, C.* From empire to a commonwealth of nations. Pp. 64. London: Wheaton. 1937.
- Mitchell, J. M., and Others.* State control and state aid for libraries. Pp. 72. London: A. J. Philip. 1937.
- Mowat, R. B., and Davies, J. D. G.* A chronicle of kingship, 1066-1937. Pp. 542. London: Barker. 1937.
- New India.* Pp. 178. London: Times Pub. Co. 1937.
- Noppen, J. G.* Royal Westminster and the coronation. Pp. 164. N.Y.: Oxford. 1937.
- Owen, L. A.* The Russian peasant movement, 1906-17. Pp. 267. London: King. 1937.
- Pincus, Arthur.* Terror in Cuba. Pp. 31. N. Y.: Workers Defense League. 1937.
- Pons, Jean.* L'éducation publique en U.S.S.R. Pp. 80. Paris: Bureau d'Editions. 1937.
- Rasmussen, Steen E.* London: the unique city. Pp. 404. N.Y.: Macmillan. 1937.
- Ritizema, T. P.* A national peril: our declining population. London: Epworth Press. 1937.
- Robson, William A.* Public enterprise; developments in social ownership and control in Great Britain. Pp. 416. London: Allen & Unwin. 1937.
- Rotvand, Georges.* Franco means business. Pp. 82. London: Paladin Press. 1937.

- Serge, Victor.* From Lenin to Stalin. Pp. 112. N.Y.: Pioneer Publishers. 1937.
- Shears, W. S.* The king; the story and splendour of British monarchy. Pp. 227. London: Hutchinson. 1937.
- Simon, E. D. and Others.* Moscow in the making. Pp. 264. N.Y.: Longmans. 1937.
- Sitzler, Hermann.* Probleme der Vollstreckungsvereitelung. Pp. 35. Erlangen-Bruck: Krahle 1936.
- Sloan, Pat.* Soviet democracy. Pp. 288. London: Gollancz. 1937.
- Soviet union, 1936. Pp. 764. London: Lawrence & Wishart. 1937.
- State planning commission of the U.S.S.R.* The second five-year plan for the development of the national economy of the U.S.S.R. (1933-1937). Pp. 727. N.Y.: Int. Pubs. 1937.
- Steinlin, Peter.* Die Weidereinbürgerung ehemaliger Schweizerbürger nach schweizerischem Bundesrecht. Pp. 169. Zürich: Leemann. 1937.
- Talbot-Booth, E. C.* The British army; its history, customs, traditions, and uniforms. Pp. 528. London: Low. 1937.
- Tangye, Nigel.* Red, white, and Spain. Pp. 231. London: Eich & Cowan. 1937.
- Tchernavin, V. V.* I speak for the silent; prisoners of the soviets. Pp. 368. London: H. Hamilton. 1937.
- Trotsky, Leon.* In defense of the soviet union. Pp. 40. N.Y.: Pioneer Publishers. 1937.
- Twining, E. F.* The English coronation ceremony. Pp. 156. London: Simpkin. 1937.
- Van Thal, Herbert,* ed. The royal letter book: being a collection of royal letters from the reign of William I to George V. Pp. 313. London: Cresset Press. 1937.
- Varadachariar, N. D.* Indian states in the federation. Pp. 156. London: Oxford Univ. Press. 1937.
- Vondracek, Felix J.* The foreign policy of Czechoslovakia, 1918-1935. Pp. 451. N.Y.: Columbia Univ. Press. 1935.
- Weitz, Benjamin I., and Others,* eds. Electric power development in the U.S.S.R. Pp. 512. N. Y.: International Publishers. 1937.
- White, F.* War in Spain. Pp. 88. London: Longmans. 1937.
- Wilkinson, B.* Studies in the constitutional history of the thirteenth and fourteenth centuries. Pp. 310. Manchester: Manchester Univ. Press. 1937.
- Williams, Albert R.* The soviets. Pp. 567. N.Y.: Harcourt. 1937.
- Workman, Alan.* A colonial postmaster-general's reminiscences. Pp. 311. London: Grayson. 1937.

Articles

- Administration. The great offices of state. *Michael MacLagan.* Eng. Rev. May, 1937.
- . A day in the life of a public analyst. *H. E. Cox.* A day in the life of a sanitary inspector. *A. H. Walker.* His Majesty's coastguard. *E. J. M. Rundle.* Pub. Admin. Apr., 1937.
- Australia. Australia. Round Table. Dec., 1936.
- . Problems in federal finance and federal grants in Australia. *D. B. Copland.* Quar. Jour. of Econ. May, 1937.
- Belgium. Fascism in Belgium. *Harold Callender.* For. Affairs. Apr., 1937.
- . Belgian anxieties. *Charles Tower.* Fortnightly. May, 1937.
- British Empire. The crown imperial. *Sir John A. R. Marriott.* Quar. Rev. Apr., 1937.
- . Danger signals for the commonwealth. The army in imperial defense.

Crown, constitution, and commonwealth. Power politics and the imperial conference. The British rate and the empire. The king and his peoples. The dominions and imperial defence. Round Table. Dec., 1936, Mar., June, 1937.

———. L'empire britannique. *B. Pollet*. Rev. Econ. Int. Apr., 1937.

———. On the eve of the imperial conference. *L. S. Amery*. Canada's future in the British commonwealth. *F. R. Scott*. For. Affairs. Apr., 1937.

———. The privy council and Mr. Bennett's "new deal" legislation. *F. R. Scott*. Canadian Jour. of Econ. and Pol. Sci. May, 1937.

———. To the foot of the throne. *G. A. Urquhart*. The Brief. May, 1937.

———. La politique musulmane britannique. *Y. M. Goblet*. Rev. Pol. et Parl. May, 1937.

———. The future of imperial preference. *L. S. Amery*. The intentions of General Hertzog. The crux of the imperial conference. *C. W. A. Coulter*. Nat. Rev. May, June, 1937.

———. The life lines of the British empire. *H. Th. de Booy*. Pacific Affairs. June, 1937.

———. Lion and unicorn today. *W. Y. Elliott*. Fortnightly. June, 1937.

———. Since the statute of Westminster. *G. G. Phillips*. Cambridge Law Jour. Vol. 6, no. 2. 1937.

Canada. Nationalism in French Canada. Round Table. Dec., 1936.

———. Public utility regulation in Nova Scotia. *J. S. Roper*. Dalhousie Rev. Apr., 1937.

———. Observations on Canadian wheat policy since the world war. *Harold S. Patton*. Canadian Jour. of Econ. and Pol. Sci. May, 1937.

———. Canada in 1937. *Hugh Molson*. Nine. Cent. June, 1937.

China. Chinese communism; the Sianfu incident. Round Table. Mar., 1937.

———. The Chinese executive. *C. M. Chen*. Potentialities of the coöperative movement in China. *J. B. Taylor*. Chinese Soc. and Pol. Sci. Rev. Apr., 1937.

Czechoslovakia. Why Czechoslovakia? *Stefan Osusky*. For. Affairs. Apr., 1937.

Finance. Federal public finance. *W. J. Wainess and Others*. Canadian Jour. of Econ. and Pol. Sci. May, 1937.

———. Farmers and income tax. *R. S. Edwards*. Economica. May, 1937.

———. The place of agriculture in the economic policy of the French government. *M. Georges Monnet*. Int. Affairs. May-June, 1937.

France. Le scrutin d'arrondissement, suicide du parti radicale-socialiste. *Bernard Lavergne*. Entre le rouge et le noir. *Jean Compeyrot*. Le projet de réforme de l'enseignement. *Hubert Bourgin*. Rev. Pol. et Parl. Apr., May, 1937.

———. The French colonial empire and the popular front government. *Jean-Yves le Branchu*. Pacific Affairs. June, 1937.

———. New deal: French style. *Norton Webb*. Current Hist. June, 1937.

———. The front populaire in difficulties. *Alexander Werth*. For. Affairs. July, 1937.

———. Economic and social problems in German-Bohemia. *Jaromir Nečas*. Slavonic Rev. Apr., 1937.

Germany. Le peuple, l'état, le droit, et la doctrine nationale-socialiste. *Ulrich Scheuner*. Rev. du Droit Pub. Jan., Feb., Mar., 1937.

———. Social trends in the third Reich. *J. C. de Wilde*. For. Pol. Reps. May 1, 1937.

———. Noise over the nazis. *Editors*. Current Hist. May, 1937.

———. On "proportional representation and the breakdown of German democracy." *John H. Humphreys*. Rejoinder. *F. A. Hermens*. Social Research. May, 1937.

———. The problem of Germany. Round Table. June, 1937.

- . Religion in Germany. *F. Moulder*. Contemp. Rev. June, 1937.
- . The German metamorphosis. *W. Walter Crotch*. Nine. Cent. June, 1937.
- . Some aspects of German agricultural settlement. *Marie P. Jasny*. Pol. Sci. Quar. June, 1937.
- . The destruction of capitalism in Germany. *V. For. Affairs*. July, 1937.
- . Die Rechstellung der deutschen Länder in der Gegenwart. *Erich Becker*. Zeit. f. Gesamte Staatswissenschaft. Vol. 97, no. 3. 1937.
- Great Britain. Great Britain. British news abroad. Round Table. Dec., 1936, June, 1937.
- . British constitutional law and the recent crisis. *Paul Weidenbaum*. N.Y. Univ. Law Quar. Rev. Mar., 1937.
- . The price of national mis-government. *D. Graham Pole*. Modern Rev. Apr., 1937.
- . The death duties. *R. Dymond*. Law Quar. Rev. Apr., 1937.
- . As Britain crowns a king. *S. K. Ratcliffe*. Current Hist. May, 1937.
- . The migration of state children. *Sir Clement Kinloch-Cooke*. Empire Rev. May, 1937.
- . Catholics and the woollack. *Derek Harbord* and *Ralph Cusach*. Dublin Rev. Apr.—June, 1937.
- . The history of parliament: a review of reviews. *Josiah C. Wedgwood*. The new army. *H. L. Pritchard*. Coronation month. *Sir Arnold Wilson*. Nine. Cent. May, June, 1937.
- . England and the monarchy. *Sir John Squire*. What the king does. *Geoffrey Dennis*. The Victorian centenary. *S. K. Ratcliffe*. May, June, 1937.
- . Crowning the king. *Charles Mallet*. Scotland's industrial problem. *Ronald M. Findlay*. The African prisoner. *Major Orde Browne*. Must Britain starve in war? *Cloudesley Brereton*. Contemp. Rev. May, June, 1937.
- . National defence and national agriculture. *Cloudesley Brereton*. Eng. Rev. June, 1937.
- India. India makes up her mind. Round Table. Dec., 1936.
- . South India on the eve of autonomy. *D. Bahadur*. The new India. *Basil Matheus*. India on the eve of autonomy. *John Coatman*. The Baroda civil service. *Stanley Rice*. Asiatic Rev. Apr., 1937.
- . Land taxation in India. *M. Vakil*. Are the interim ministries unconstitutional? *N. L. Chatterji*. The Indian states and federation. *D. Gupta*. Modern Rev. Apr., May, 1937.
- . The princes of India and the British crown. *Sir George MacMunn*. Eng. Rev. May, 1937.
- . India today. *J. C. French*. Nat. Rev. May, 1937.
- Ireland. Free state or republic? Round Table. Dec., 1936.
- . Regulation of air navigation in the Irish free state. *James L. Brown*. Jour. of Air Law. Apr., 1937.
- . Ireland's trade war. *W. B. Merriam*. Current Hist. June, 1937.
- Italy. The Italian corporations at work. *Odon Por*. Int. Labour Rev. May, 1937.
- Japan. Japan's halfway house to fascism. *William Henry Chamberlain*. Current Hist. May, 1937.
- Mexico. The unconquerable Mexican. *Hubert Herring*. Harper's. June, 1937.
- Monarchy. Réflexions sur la monarchie anglaise. *Ch. Bastide*. Rev. Econ. Int. Apr., 1937.
- . Kings, queens, and coronations. *E. Thornton Cook*. Cornhill Mag. Apr., 1937.

- . The history of the coronation service. *L. G. Wickham Legg*. Nine. Cent. May, 1937.
- . The coronation. *Lord Mesion*. Int. Affairs. May-June, 1937.
- . The coronation of Christian kings. *Abbot Cabrol*. Dublin Rev. Apr.-June, 1937.
- Newfoundland. The problems of Newfoundland. *Thomas Lodge*. Fortnightly. May, 1937.
- New Zealand. New Zealand. Round Table. Dec., 1936.
- . Socialism at the antipodes. *Donald Cowie*. Quar. Rev. Apr., 1937.
- . News from New Zealand. *Donald Cowie*. Current Hist. May, 1937.
- Palestine. Palestine: the commission's task. Round Table. Dec., 1936.
- Philippines. The Philippine commonwealth. *Wilbur Burton*. Asiatic Rev. Apr., 1937.
- Portugal. The Portuguese republic. *W. C. Langsam*. Social Studies. May, 1937.
- Roumania. Behind Roumania's crisis. *Charles Hodges*. Current Hist. June, 1937.
- Russia. Russia's defensive strength. Round Table. Mar., 1937.
- . The new soviet constitution. *H. N. Mukherjee*. Modern Rev. May, 1937.
- . The new Russian constitution. *Arnold Brecht*. Social Research. May, 1937.
- Scotland. A distant prospect of Scotland. *Ritchie Calder*. Fortnightly. May, 1937.
- Social Security. La lutte de l'Allemagne contre le chômage. *R. Noll v. d. Nahmer*. Rev. Econ. Int. Apr., 1937.
- . Public assistance in London. *Paul Tutt Stafford*. A successful experiment in public assistance. *Harold I. Baum*. Nat. Munic. Rev. May, 1937.
- . Unemployment assistance in Great Britain. *Paul T. Stafford*. Am. Pol. Sci. Rev. June, 1937.
- . Social security in France. *W. A. Sollohub*. Harvard Bus. Rev. Spring, 1937.
- South Africa. South Africa. Round Table. Dec., 1936.
- Spain. The two Spains. Round Table. Dec., 1936.
- . The issues in Spain. *Douglas Jerrold*. Am. Rev. Apr., 1937.
- . Spain under Communist control. *G. M. Godden*. General Franco's new Spain. *E. Allison Peers*. Dublin Rev. Apr.-June, 1937.
- . The Spanish situation reviewed. *G. M. Gathorne-Hardy*. Int. Affairs. May-June, 1937.
- . Cárdenas organizes capitalism. *Carleton Beals*. Spain's rebel chiefs. *L. F. Gittler*. Spain balks the fascists. *Lawrence A. Fernsworth*. Current Hist. May, June, 1937.
- . Spain the insuppressible. *Sir George Young*. Fortnightly. June, 1937.
- . Eye-witness in Madrid. *Geoffrey Cox*. Harper's. June, 1937.
- . Agriculture and the Spanish war. *Heinz Paechter*. Contemp. Rev. June, 1937.
- . Revolutionary forces in Catalonia. *Lawrence A. Fernsworth*. For. Affairs. July, 1937.
- . Epilogue to Spain. *Thomas Mann*. Life and Letters Today. Summer, 1937.

INTERNATIONAL RELATIONS

Books

- Blackledge, W. J.* Death squads in Morocco. Pp. 246. London: Low. 1937.
- Blunden, Edmund.* Undertones of war. Pp. 287. London: Penguin Books. 1937.

Bono, Emilio D. Anno XIII: the conquest of an empire. Pp. 330. London: Cresset Press. 1937.

Bosch, Robert. The prevention of future crises in the world economic system. Pp. 50. London: Constable. 1937.

Bramer, Irene. Das Lebensinteresse des Staates und die völkerrechtlichen Verträge. Pp. 50. Dresden: Dittert. 1937.

Cail, Arthur D. Force and world peace. Pp. 11. Wash.: Am. Peace Soc. 1937.

Chandan, K. S. Les conflits européens. Pp. 300. Paris: P. Bossuet.

Corbett, Percy E. The settlement of Canadian-American disputes. Pp. 142. New Haven (Conn.): Yale Univ. Press. 1937.

Cronbach, Abraham. The quest for peace. Pp. 232. Cincinnati: Sinai Press. 1937.

Daiton, John E. Sugar: a case study of government control. Pp. 311. Chicago: Macmillan. 1937.

Darvall, Frank. The price of European peace. Pp. 196. London: Hodge. 1937.

Derlinger, S., and Gary, C. B. War in the Pacific; a study of navies, peoples, and battle problems. Pp. 348. London: Williams & Norgate. 1937.

Dior, R. A. Le vatican et sa politique. Paris: Le Crapouillot. 1937.

Bagleton, Clyde. Analysis of the problem of war. Pp. 132.

Fuller, J. F. C. Towards Armageddon: the defence problem and its solution. Pp. 253. London: L. Dickson. 1937.

Germany tells the world; an account of four years of Nazi foreign policy, 1933-1937. Pp. 61. London: Union of Democ. Control. 1937.

Gibbsrd, Kathleen. I.L.O.; the unregarded revolution. Pp. 161. London: Dent. 1937.

Haralin, Scoville. Economic balance or world war. Pp. 312. N.Y.: Richard R. Smith. 1937.

Hartley, Livingston. Is America afraid? a new foreign policy for the United States. Pp. 473. N.Y.: Prentice-Hall. 1937.

Hillson, Norman. I speak of Germany; a plea for Anglo-Norman friendship. Pp. 311. London: Routledge. 1937.

Howe, E. Graham. War dance; a study of the psychology of war. Pp. 315. London: Faber. 1937.

Hubbard, Ursula P. The coöperation of the United States with the league of nations, 1931-1936. Pp. 176. N.Y.: Carnegie Endow. for Int. Peace. 1937.

Huxley, Aldous. What are you going to do about it? The case for constructive peace. Pp. 30. N.Y.: Harper. 1937.

Ishimaru, T. The next world war. Pp. 352. London: Hurst & Blackett. 1937.

Jones, F. Elwyn. Hitler's drive to the east. Pp. 130. N.Y.: Dutton. 1937.

Kent, P. H. B. The twentieth century in the far east; a perspective of events, cultural influences, and policies. Pp. 390. N.Y.: Longmans. 1937.

Lewie, Wyndham. Count your dead; they are alive, or a new war in the making. Pp. 358. London: L. Dickson. 1937.

The league and the future of the collective system. Pp. 282. N.Y.: Oxford Univ. Press. 1937.

Liepmann, Heinz. Death from the skies; a study of gas and microbial warfare. Pp. 286. London: Secker & Warburg. 1937.

Luke, Sir Harry. More moves on an eastern checkerboard. Pp. 279. London: L. Dickson. 1937.

McCabe, Joseph. The papacy in politics today; Vatican plots in Spain and other countries. Pp. 205. London: Watta. 1937.

Manning, William R., ed. Diplomatic correspondence of the United States: inter-American affairs, 1831-1860. Vol. 8; Mexico. Pp. 1106. Wash.: Carnegie Endow. for Int. Peace. 1937.

Peace year-book, 1937. Pp. 418. London: Nat. Peace Council. 1937.

Peffer, Nathaniel. Japan and the Pacific. Pp. 256. London: H. Hamilton. 1937.

Petrie, Sir Charles. Lords of the inland sea; a study of the Mediterranean powers. Pp. 296. London: Dickson. 1937.

Prache, Gaston. La coopération et la paix. Paris: P.U.F. 1937.

Prentiss, A. M. Chemicals in war: a treatise on chemical warfare. Pp. 757. London: McGraw-Hill. 1937.

Robbins, Lionel. Economic planning and international order. Pp. 346. London: Macmillan. 1937.

Riedinger, Dietrich. Staatsnotstand und Völkerrecht. Pp. 140. Ratibor OS: Riedinger. 1935.

Rosenburg, Alfred. Future of German foreign policy. London: Friends of Europe. 1937.

Saint-Aulaire, Comte de. Geneva versus peace. Pp. 272. N.Y.: Sheed & Ward. 1937.

Samuel, Herbert. Wars of ideas: international organisation of European rail transport. Pp. 73. N.Y.: Carnegie Endow. for Int. Peace. 1937.

Schuman, Frederick L. International politics; an introduction to the western state system. 2d ed. N.Y.: McGraw-Hill. 1937.

Shepardson, W. H., and *Scroggs, W. O.* The United States in world affairs; an account of American foreign relations, 1936. N.Y.: Harper. 1937.

Staley, Eugene. Raw materials in peace and war. Pp. 336. N.Y.: Council on For. Rels. 1937.

Stevens, William O., and *Westcott, Allen*. A history of sea power. Rev. ed. Pp. 447. Garden City (N.Y.): Doubleday. 1937.

Stone, William T., and *Goslin, R. C. A.* Billions for defense. Pp. 46. N.Y.: For. Policy Assoc. 1937.

Talbot-Booth, E. C. All the world's fighting fleets. Pp. 694. London: Low. 1937.

Thornhill, Christopher J. Taking Tanganyika. Pp. 288. London: S. Paul. 1937.

United States among the nations; lectures arranged by the University of California committee on international relations. Pp. 192. Berkeley (Cal.): Univ. of Cal. Press.

Viner, Jacob. Studies in the theory of international trade. Pp. 665. N.Y.: Harper. 1937.

Wales, George F. From world force to world fellowship. Pp. 157. London: Lindsey Press. 1937.

Weinfeld, Abraham C. Labor treaties and labor compacts. Pp. 142. Bloomington (Ind.): Principia Press. 1937.

Werner, G. F. Deutschlands Austritt aus dem Völkerbunde. Pp. 62. Düsseldorf: Nolte. 1936.

Whittlesey, Charles R. International monetary issues. Pp. 252. N.Y.: McGraw-Hill. 1937.

Willert, Sir Arthur, and *Others*. The empire in the world. Pp. 337. N.Y.: Oxford Univ. Press. 1937.

Winkelmann, F. W. Die deutsche Kolonialfrage als Völkerrechtsproblem. Pp. 43. Bochum-Langendreer: Pöppinghaus. 1936.

Wittmer, Felix. Floodlight on Europe; a guide to the next war. Pp. 559. N.Y.: Scribner. 1937.

Articles

Adjudication. L'affaire des eaux de la Meuse. *F. Dehousse*. Rev. Droit Int. Jan.-Mar., 1937.

———. Recent consular cases, 1919-1936. *Ellon Atwater*. Int. Law & Rel. May 15, 1937.

Africa. The Egyptian treaty and after. Round Table. Dec., 1936.

———. Le conflit italo-éthiopien. *Ch. Rousseau*. Problèmes soulevés à l'occasion de l'annexion, par l'Italie, de l'empire éthiopien. *K. Strupp*. Rev. Gén. de Droit Int. Pub. Jan.-Feb., 1937.

———. La conférence de Montreux: l'Égypte et l'abolition de capitulations. *Georges Meyer*. Rev. Pol. et Parl. Apr., 1937.

———. The diplomacy of the Ethiopian crisis. *Leon G. Haiden*. Jour. of Negro Hist. Apr., 1937.

———. The new Roman empire in Africa. *Watson Kirkconnell*. Dalhousie Rev. Apr., 1937.

———. With the *duce* in Libya. *E. D. O'Brien*. Eng. Rev. May, 1937.

———. Italian East Africa. *E. W. Polson Newman*. Nine. Cent. June, 1937.

American Foreign Relations. Our Liberian protectorate. *John C. LeClair*. Current Hist. May, 1937.

———. Americans look at their far eastern policy. *Russell E. Hall*. Pacific Affairs. June, 1937.

Armament and Disarmament. Naval bases in the Pacific. *William Henry Chamberlin*. For. Affairs. Apr., 1937.

———. Some technical aspects of the finance of rearmament. *N. F. Hall*. Economica. May, 1937.

———. Australia and New Zealand rearmament. *Donald Cowie*. Empire Rev. May, 1937.

———. The armaments budget: the deficit: the profits tax: and the financial future. *F. W. Hirst*. Contemp. Rev. June, 1937.

Colonies. La politique musulmane de l'Italie. *Fr. de Richemont*. Rev. Pol. et Parl. Apr. 10, 1937.

———. The German colonial claim. *L. S. Amery*. Nat. Rev. June, 1937.

Diplomacy. Ministers to Liberia and their diplomacy. *James A. Padgett*. Jour. of Negro Hist. Jan., 1937.

———. Carl Schurz, the diplomat. *Barbara Donner*. Wis. Mag. of Hist. Mar., 1937.

———. A requisite for the success of popular diplomacy. *Elhu Root*. The modern diplomat. *H. For. Affairs*. Apr., 1937.

Europe. The little and Balkan ententes. *R. W. Seton-Watson*. Slavonic Rev. Apr., 1937.

———. The Franco-Russian pact. *W. Waller Crotch*. The buffer states. *George Soloveitchik*. Quar. Rev. Apr., 1937.

———. Choices before the Baltic states. *B. Akzin*. Tribulations of empire: the Mediterranean problem. *William L. Langer*. The Nazis in Scandinavia. *Jochin Joester*. For. Affairs. Apr., July, 1937.

———. England and Germany. *Marquess of Lothian*. Nine. Cent. May, 1937.

———. Muddled Europe. *D. Graham Pole*. Modern Rev. May, 1937.

———. Stresses in Central Europe. *Wickham Steed*. Fortnightly. May, 1937.

———. Austria and Czechoslovakia. *Ernest Benedict*. The Hungarian question. *Sir Raymond Beazley*. The Belgian problem. *Emile Cammaerts*. The vitality of the little entente. *W. Waller Crotch*. Contemp. Rev. May, June, 1937.

- . The changing balance of forces in the Mediterranean. *Hector C. Bywater*. Int. Affairs. May-June, 1937.
- . England, Austria, and the Habsburg problem. *Felix Valyi*. Nat. Rev. June, 1937.
- . Czechoslovakia: bridge or barricade? *Elmer Davis*. Harper's. June, 1937.
- Exterritoriality. The law of the land. *C. S. Jarvis*. Nat. Rev. June, 1937.
- Far East. Origins of German far eastern policy. *Minge C. Bee*. Chinese Soc. and Pol. Sci. Rev. Apr., 1937.
- . The perennial Kamchatka discord. *Bruce Hopper*. China prepares to resist. *Lin Yutang*. China still waits the end of extraterritoriality. *Ching-Chun Wang*. Australia in the changing east. *E. L. Curthoys*. For. Affairs. Apr., July, 1937.
- . China and India. *Rabindranath Tagore*. Modern Rev. May, 1937.
- . Japan's foreign policy. *J. Ingram Bryan*. Empire Rev. May, 1937.
- . Anglo-Japanese rivalry in southeast Asia. *Ernest O. Hauser*. For. Pol. Reps. May 15, 1937.
- . An impression of the far east. *Major E. Ainger*. Int. Affairs. May-June, 1937.
- . Great Britain and Japan. *Sir Reginald F. Johnson*. Nat. Rev. May, June, 1937.
- . Japan wavers. *Guenther Stein*. Atlantic. June, 1937.
- . The prelude to outer Mongolian independence. *Gerald M. Friters*. Pacific Affairs. June, 1937.
- . China's united front. *Frederick V. Field*. Current Hist. June, 1937.
- Inter-American Relations. Étude de la politique étrangère américaine, vis-à-vis de l'Amérique latine sous l'angle de la doctrine de Monroe. L'Egypte Contemp. Jan., 1937.
- . Le nouveau panamericanisme. *J. M. Yepes*. Rev. Droit Int. Jan.-Mar., 1937.
- . Elihu Root; his Latin American policy. *J. B. Scott*. Bull. Pan. Am. Union. Apr., 1937.
- . Canada and the Americans. *A. R. M. Lower*. Dalhousie Rev. Apr., 1937.
- . The new era in Pan-American relations. *Sumner Welles*. Europe versus the United States in Latin America. *Gaston Nerval*. For. Affairs. Apr., July, 1937.
- . The results and significance of the Buenos Aires conference. *Cordell Hull*. For. Affairs. Spec. Supp. vol. 15, no. 3. 1937.
- . Canada and the Monroe doctrine. *M. A. Kelly*. Nat. Rev. May, 1937.
- . Monroe doctrine: 1937 style. *G. Arbaiza*. Current Hist. June, 1937.
- International Law. La guerre civile et la responsabilité internationale de l'état. *G. Berlia*. Rev. Gén. de Droit Int. Pub. Jan.-Feb., 1937.
- . La tragique insuffisance du droit des gens. *O. Hoijer*. Les opérations de guerre et les principes du droit des gens. *R. P. Yves de la Brière*. Rev. Droit Int. Jan.-Mar., 1937.
- . La théorie des sujets du droit international et les organisations professionnelles. *A. Berenstein*. Rev. Int. Théorie du Droit. Vol. 11, no. 2. 1937.
- International Trade and Finance. D'un projet de loi internationale sur la vente. *Andre Prudhomme*. Jour. Droit Int. Jan.-Feb., 1937.
- . World exchange: a new plan. Empire trade and world trade. Round Table. Dec., 1936, June, 1937.
- . La concurrence internationale et le problème de l'économie dirigée. *Henri Hauser*. Rev. Econ. Int. Apr., 1937.
- . The international tin control scheme. *Charles A. Myers*. Jour. of Bus. Apr., 1937.

- . Lancashire and our foreign trade policy. *W. S. Ascoli*. Nine. Cent. May, 1937.
- . Mobilizing for gasoline. *William Gilman*. Current Hist. June, 1937.
- . The north Pacific fisheries. *Edward Weber Allen*. Pacific Affairs. June, 1937.
- . Uncle Sam as an exporter. *Carl Crow*. Harper's. June, 1937.
- . The next fiscal issue. *George Pul*. Fortnightly. June, 1937.
- . Instruments of British policy in the sterling area. *Robert B. Stewart*. Pol. Sci. Quar. June, 1937.
- . A year of the Canadian trade agreement. *Herbert Feis*. Oriental competition in world trade. *John E. Orchard*. For. Affairs. July, 1937.
- . The world wheat situation. *E. F. Brayham*. Life and Letters Today. Spring, 1937.
- . The dismal science: world politics. *Frederick L. Schuman*. Am. Scholar. Spring. 1937.
- . Die grönländische Fischereigrenze. *Viktor Böhmert*. Zeitschrift f. Völkerrecht. Vol. 21, no. 1. 1937.
- . L'économie mondiale et le droit international. *A. Lauterpach*. Rev. Int. Théorie du Droit. Vol. 11, no. 2. 1937.
- League of Nations. Reform of the covenant of the league of nations. *Clyde Eagleton*. Am. Pol. Sci. Rev. June, 1937.
- Migration. The migration of British citizens between the United Kingdom and Europe. *R. S. Walshaw*. Sociological Rev. Apr., 1937.
- . The great new migration. *Countess Waldeck*. For. Affairs. Apr., 1937.
- Minorities. National minorities in Europe: the Germans of Hungary. *F. Slavonic*. Rev. Apr., 1937.
- . Czechoslovakia and its minorities. Round Table. June, 1937.
- Neutrality. The Swiss neutrality claims case before the league of nations. *J. L. Kunz*. N.Y. Univ. Law Quar. Rev. Mar., 1937.
- . American neutrality: past and present. *William Gerald Downey, Jr.* Catholic World. May, 1937.
- . Les États-Unis d'Amérique et la notion de neutralité. *F. Bottie*. Rev. Droit Int. May, 1937.
- . Rough-hew them how we will. *Walter Lippmann*. For. Affairs. July, 1937.
- Russia. Die Sowjetunion:—ein Mitglied der Völkerrechtsgemeinschaft. *Reinhart Maurach*. Zeitschrift f. Völkerrecht. 1937.
- Sanctions. The sanctions experiment in retrospect. *H. N. Fieldhouse*. Dalhousie Rev. Apr., 1937.
- Spain. Intervention in Spain. Round Table. Mar., 1937.
- . Spanish turmoil and the trend of British diplomacy. *J. C. Bagal*. Modern Rev. Apr., 1937.
- . The non-intervention committee and control in Spain. *H. L. Bul*. of Int. News. May 1, 1937.
- . L'Espagne évolue-t-elle vers la paix? *Georges Rotwand*. Rev. Pol. et Parl. May, 1937.
- . British policy towards Spain. *D. Graham Hutton*. For. Affairs. July, 1937.
- Traffic in Arms. Supervising the American traffic in arms. *Joseph C. Green*. For. Affairs. July, 1937.
- Treaties. L'enregistrement des traités internationaux. *L. Reitzer*. Rev. Gén. de Droit Int. Pub. Jan.-Feb., 1937.

- . A note on the implementing of treaties in Australia and Canada. *J. D. Holmes*. Australian Law Jour. Apr. 15, 1937.
- . Roll-call on treaties. *Vance O. Packard*. Current Hist. June, 1937.
- War and Peace. Les conflits de nationalités. *Marc Ancel*. Jour. du Droit Int. Jan.-Feb., 1937.
- . Is peace indivisible? *Paul Milyukov*. Slavonic Rev. Apr., 1937.
- . Future warfare. *Liddell Hart*. Eng. Rev. May, 1937.
- . Background of war. Fortune, May, June, 1937.
- . North Europe's war rehearsal. *Joachim Joesten*. Current Hist. June, 1937.
- . Loving peace and waging war. *Carl Becker*. Yale Rev. Summer, 1937.
- World War. France and the outbreak of the world war. *Bernadotte E. Schmitt*. For. Affairs. Apr., 1937.
- . The vatican and the world war. *Count Sforza*. Contemp. Rev. June, 1937.

JURISPRUDENCE

Books

- Beattie, Ronald H.* A system of criminal judicial statistics for California. Pp. 238. University of California: Bureau of Public Administration. 1937.
- Brayne, C. V.* Social justice first. Pp. 100. London: Allen & Unwin. 1937.
- Cardahi, C.* Les hommes de loi. Pp. 200. Paris: Sirey.
- Cecil, William.* The execution of justice in England. Pp. 44. N.Y.: Scholars' Facsimiles & Reprints, 106 7th Ave. 1937.
- Cooper, Courtney R.* Ten thousand public enemies. Pp. 356. London: Dickson. 1937.
- Flom, George T.* The old Norwegian general law of the Gulathing. Pp. 204. Urbana (Ill.): Univ. of Ill. 1937.
- Fritz, Karl-Heinz.* Studien zur Justinianischen Reformgesetzgebung. Pp. 68. Quakenbrück: Trute. 1937.
- Glueck, Sheldon and Eleanor.* Later criminal careers. Pp. 414. N.Y.: Commonwealth Fund. 1937.
- Goebel, Julius, Jr.* Felony and misdemeanor; a study in the history of English criminal procedure. Vol. I. Pp. 484. N.Y.: Commonwealth.
- Haring, J. Vreeland.* The hand of Hauptmann; the handwriting expert tells the story of the Lindbergh case. Pp. 361. Plainfield (N.J.): Hamer Pub. Co. 1937.
- Harvey, Richmond.* Prison from within. Pp. 287. London: Allen & Unwin. 1937.
- Hutcheson, Joseph C., Jr.* Law as liberator. Pp. 201. Chicago: Foundation Press. 1937.
- Kreusch, Max.* Die Bekämpfung des Erpressertums im neuen Strafrecht: Pp. 29. Köln: Orthen. 1936.
- Le Fur, L.* Les grands problèmes du droit. Pp. 619. Paris: Sirey.
- Lamb, Ruth de Forest.* American chamber of horrors. N.Y.: Farrar & Rinehart. 1937.
- Lantenois, A., and Chieulet, J.* Jurisprudence administrative. Pp. 402. Paris: Nathan.
- Morris, Clarence.* How lawyers think. Pp. 158. Cambridge (Mass.): Harvard Univ. Press. 1937.
- O'Dougherty, Harold St. L., ed.* Eagle legal definitions, based on the laws relating to crime. Pp. 67. Brooklyn (N. Y.): Eagle Lib. 1937.
- Riasanovsky, V. A.* Fundamental principles of Mongol law. Pp. 358. London: K. Paul. 1937.

Stumberg, George W. Principles of conflict of laws. Pp. 441. Chicago: Foundation Press. 1937.

Styles, Fitzhugh L. Negroes and the law. Pp. 320. Boston: Christopher. 1937.

Zarzycki, J. De la demand en justice. Paris: Libr. Gén. Droit et Juris.

Articles

Administration of Justice. The administrative machinery for state crime control. *Justin Miller*. Am. Law School Rev. May, 1937.

———. The preliminary hearing: Canadian practice. Jour. of Crim. Law. Jan.-Mar., 1937.

———. Administration of minor justice in selected Illinois counties. *H. K. Allen*. Ill. Law Rev. Apr., 1937.

Beale. Joseph Henry Beale: pioneer. *A. L. Harding*. Mo. Law Rev. Apr., 1937.

Blackstone. Blackstone—outside the commentaries. *C. H. S. Fifoot*. Fortnightly. June, 1937.

Codification. The reform of the law: codification. *B. A. Wortley*. Nine. Cent. May, 1937.

Conflict of Laws. Conflict of laws: jurisdiction over individuals based on allegiance. *John Quattrocchi, Jr.* Boston Univ. Law Rev. Apr., 1937.

———. Characterization in the conflict of laws. *John D. Falconbridge*. Law Quar. Rev. Apr., 1937.

Crime. Juvenile crime: facts and fallacies. *F. T. Tarry*. Police Jour. Apr.-June, 1937.

Criminal Law. Criminal law—insurrection and sedition—criminal syndicalism. N.Y. Univ. Law Quar. Rev. Mar., 1937.

———. The evolution of criminal law and criminal investigation. *David Murray*. Police Jour. Apr.-June, 1937.

———. Criminal prosecution in the United States. Jour. of Crim. Law. Apr.-June, 1937.

———. A rationale of the law of homicide. *Herbert Wechsler* and *Jerome Michael*. Reduction of criminal sentences on appeal. *Livingston Hall*. Columbia Law Rev. May, 1937.

———. Common law misdemeanours. *R. M. Jackson*. Cambridge Law Jour. Vol. 6, no. 2. 1937.

Detection. Scientific aids in criminal investigation. *F. G. Tryhorn*. All about finger-prints. *H. Batley*. Teamwork in crime detection. *J. Westland*. Footprints. *F. Elmes*. Tremendous trifles. *Edward A. Dieckmann*. Police. Jour. Jan.-Mar., Apr.-June, 1937.

Domestic Relations. Domestic quarrels in law courts. *R. A. Kanigsberg*. Dalhousie Rev. Apr., 1937.

Hegel. Hegels "Abstraktes Recht" und das gegenwartige Privatrecht. *Arwed Blomeyer*. Archiv f. Rechts- und Sozialphilos. Apr., 1937.

Jefferies. Richard Jefferies. *Henry Williamson*. Atlantic. June, 1937.

Justice. Preventive justice. Jour. of Crim. Law. Apr.-June, 1937.

Law. Blood-grouping tests and the law: the problem of "culture lag." *Stewart Henderson Britt*. Minn. Law Rev. May, 1937.

———. The reform of the law: the problem of interpretation. *R. A. Eastwood*. Nine. Cent. June, 1937.

Legal Philosophy. La théorie du droit du Weyr. *A. Procházka*. Zum Methodenproblem der Privatrechtstheorie. *K. Labischin*. Rev. Int. Théorie du Droit. Vol. 11, no. 2. 1937.

Mansfield. Lord Mansfield. *William Holdsworth*. Law Quar. Rev. Apr., 1937.

Opinions. Affirmance without opinion. *Philip Marcus*. *Fordham Law Rev.* May, 1937.

Third Degree. The third degree and legal interrogation of suspects. *Edwin R. Keady*. *Univ. of Pa. Law Rev.* June, 1937.

LOCAL GOVERNMENT

Books

Abramczyk, Siegfried. Die Polizeiverordnung und ihre Anwendung im Einzelfall nach dem preussischen Polizeiverwaltungsgesetz. Pp. 56. Berlin: Pfau. 1936.

Adams, T. Play-parks. Pp. 54. London: Coronation Planning Com. 1937.

Bird, Frederick L. The trend of tax delinquency, 1930-1936: in cities of over 50,000 population. Pp. 29. N.Y.: Dun & Bradstreet. 1937.

Cornell, F. G. A measure of tax-paying ability of local school administrative units. Pp. 122. N. Y.: Teachers Coll., Columbia Univ. 1936.

Ehlers, V. M., and Steel, E. W. Municipal and rural sanitation. Pp. 490. N.Y.: McGraw-Hill. 1937.

Hansen, George H. A regional redistricting plan for the state of Utah. Pp. 59. Provo (Utah): Brigham Young Univ. Press. 1937.

Lopata, Edwin L. Local aid to railroads in Missouri. Pp. 164. N.Y.: Parnassus Press. 1937.

Macdonald, Austin F. American city government and administration. Rev. ed. Pp. 792. N. Y.: Crowell. 1937.

MacLeish, Archibald. The fall of the city. N.Y.: Farrar & Rinehart. 1937.

Making municipal reports readable. Pp. 28. Trenton (N.J.): N. J. Taxpayers Assoc. 1937.

Oakes, Eugene E. Studies in Massachusetts town finance. Pp. 249. Cambridge (Mass.): Harvard Univ. Press. 1937.

Rathkopf, Charles A. and Arden. Zoning and planning in New York state. Pp. 415. N.Y.: Crosby Press. 1937.

Ridley, C. E., and Nolling, O. F., eds. The municipal year book, 1937. Pp. 607. Chicago: Int. City Managers' Assoc. 1937.

Schmidt, Emerson P. Industrial relations in urban transportation. Pp. 276. Minneapolis: Univ. of Minn. Press. 1937.

Weinbaum, Martin. The incorporation of boroughs. Pp. 150. Manchester: Manchester Univ. Press. 1937.

Articles

Accounting. Property accounts for municipalities. *Robert P. Hackett*. *Accounting Rev.* Mar., 1937.

———. Financial and accounting standards. *Carl H. Chatters*. *Nat. Munic. Rev.* June, 1937.

City Manager. The charter league of the electric city. *Philip L. Alger*. *Nat. Munic. Rev.* May, 1937.

Excess Condemnation. Excess condemnation for city, county, township, and regional planning. *Jewell C. Phillips*. *Jour. of Land and Pub. Util. Econ.* May, 1937.

Finance. Federal regulation of local debt. *Wylie Kilpatrick*. Municipal bond defaults. *Sanders Shanks, Jr.* The bonded debt of 272 cities as at January 1, 1937. *Rosina Mahaupt*. *Nat. Munic. Rev.* June, 1937.

———. Legal phases of local sales tax. *Morton Baum*. State control of dissenting minority creditors in municipal debt readjustments. *Legal Notes on Local Gov't.* May, 1937.

Fire Protection. Day of a fire brigade officer. *A. P. L. Sullivan*. Pub. Admin. Apr., 1937.

———. Fire protection standards for waterworks. *Sanford Herberg*. Minn. Municipalities. May, 1937.

Franchises. Revision ou résiliation des concessions de service public de transports en commun d'intérêt local. *Gaston Jèze*. Rev. du Droit Pub. Jan., Feb., Mar., 1937.

Housing. New York slum clearance and the law. *William Karlin*. Pol. Sci. Quar. June, 1937.

Municipal Law. Liability of the municipality for mob violence. *Fordham Law Rev.* May, 1937.

———. Highways and sidewalks: liability of municipality and abutting owner for injuries resulting from ice and snow. *Minn. Law Rev.* May, 1937.

Parks, Rights of entrants to public parks. *N. G. McWilliam*. Australian Law Jour. Apr. 15, 1937.

Peddlers. Restrictions of peddling as a nuisance. *Herman Kerhli*. N. J. Municipalities. June, 1937.

Planning. Improved local services through coöperative planning. *Charles R. Erdman, Jr.*, N.J. Municipalities. May, 1937.

Police. Public coöperation with the police in South India. *D. Crossley*. Toward a coöordinated constabulary. *P. McA. Stewart*. The future of police radio. *H. J. Redgrave*. Police Jour. Jan.-Mar., Apr.-June, 1937.

———. Work of the Thames police. *J. Brown*. Pub. Admin. Apr., 1937.

———. Measuring police activities. *Clarence E. Ridley* and *Herbert A. Simon*. Pub. Management. May, 1937.

Public Meetings. Public meetings and processions. *A. L. Goodhart*. Police powers and public meetings. *E. C. S. Wade*. Cambridge Law Jour. Vol. 6, no. 2. 1937.

Public Utilities. Public contributions to municipally-owned electric utilities compared with taxes of private electric utilities in Minnesota. *Arthur Borak*. Jour. of Land and Pub. Util. Econ. May, 1937.

———. Statutory, charter, and ordinance provisions relating to local boards for the management of municipal utility plants. *A. D. McLarty*. Ill. Munic. Rev. Feb., 1937.

Statistics. Washington gathers municipal data. *Albert Lepawsky*. Pub. Opinion Quar. July, 1937.

Streets. Selecting a street name sign. *Byron J. Rockwood*. Pub. Management. June, 1937.

Swimming Pools. The construction and operation of swimming pools. *H. J. Kuelling* and *W. E. Jeffrey*. Municipality. May, 1937.

Traffic. Traffic relief for city streets. *L. W. Hoelscher*. Tex. Municipalities. May, 1937.

———. Trailers. Trailers and taxes. Ill. Munic. Rev. Apr., 1937.

———. Municipal regulation of house trailers. *Herbert G. Ogden*. Pub. Management. May, 1937.

Transportation. Bus terminals—a new municipal activity. *Wilder M. Richs*. Pub. Management. June, 1937.

Washington, D. C. Intergovernmental fiscal relations in the nation's capital. *Lewis B. Sims*. Nat. Munic. Rev. May, 1937.

Water Supply. Water pollution and related factors. *Thorndike Saville*. N.J. Municipalities. May, 1937.

Zoning. New cities for old by means of zoning ordinances. *E. A. Wood*. Tex. Municipalities. Apr., 1937.

POLITICAL THEORY AND MISCELLANEOUS

Books

American Country Life Assoc. Education for democracy; proceedings of the nineteenth American Country Life Conference, 1936. Pp. 153. Chicago: Univ. of Chicago Press. 1937.

Anglo-American year-book. Pp. 540. London: Am. Chamber of Commerce in London. 1937.

Baker, Helen C., and Routzahn, Mary Swain. How to interpret social work; a study course. Pp. 79. N.Y.: Russell Sage Found. 1937.

Baker, Jacob. Coöperative enterprise. Pp. 281. N.Y.: Vanguard. 1937.

Baker, Wilma, ed. Child welfare case records. Pp. 596. Chicago: Univ. of Chicago Press. 1937.

Beard, Charles A. and Mary R. Making of American civilization. Pp. 990. N.Y.: Macmillan. 1937.

Bell, R. Principles of liberty. Pp. 260. London: H. E. Walter, 1937.

Belloc, Hilaire and Others. The state and our civil liberties. Pp. 30. N.Y.: Am. Book. 1937.

Blumenfeld, Frank B. A blueprint for fascism. Pp. 23. N.Y.: Am. League against War and Fascism. 1937.

Bode, Boyd H. Democracy as a way of life. Pp. 114. London: Macmillan. 1937.

Boyd, William. An introduction to the Republic of Plato. Pp. 212. London: Allen & Unwin. 1937.

Brainerd, J. G., ed. Consumers' coöperation. Pp. 292. (Annals of Am. Academy of Political and Social Science. May, 1937). Phila.: Am. Acad. of Pol. & Soc. Sci.

Brown, William H. Church and state in contemporary America. Pp. 378. London: Scribner. 1937.

Burrow, Trigant. The biology of human conflict. Pp. 475. N.Y.: Macmillan. 1937.

Burrows, Raymond. The problems and practice of economic planning. Pp. 290. London: King. 1937.

Casey, James. The crisis in the communist party. Pp. 23. N.Y.: Three Arrows Press. 1937.

Cole, G. D. H., and Others. What is ahead of us? Pp. 192. N.Y.: Macmillan. 1937.

Comey, Arthur C., and Mc Namara, Katherine. State and national planning; an analysis of the subject arranged with particular reference to the classification of library material. Pp. 23. Cambridge (Mass.): Harvard Univ. Press. 1937.

Cromwell, James H. R., and Czerwonky, Hugo E. In defense of capitalism. Pp. 390. N.Y.: Scribner. 1937.

Cross, William T. and Dorothy E. Newcomers and nomads in California. Pp. 158. Stanford Univ. (Calif.): Stanford Univ. Press. 1937.

Crossman, R. H. S. Plato today. Pp. 302. London: Allen & Unwin. 1937.

Crutwell, C. R. M. F. A history of peaceful change in the modern world. Pp. 221. London: Oxford Univ. Press. 1937.

Edie, L. D. Easy money. Pp. 183. New Haven (Conn.): Yale. 1937.

Ellis, Elmer, ed. Education against propaganda. Pp. 187. Cambridge (Mass.): Nat. Council for Social Studies. 1937.

Epstein, M., ed. The annual register. Pp. 202. London: Longmans. 1937.

Ericksen, E. E. Social ethics; an introduction to moral problems. Pp. 364. Garden City (N. Y.): Doubleday. 1937.

Faulkner, H. U. American political and social history. Pp. 794. N.Y.: Crofts. 1937.

Forman, S. E. A good word for democracy. Pp. 136. N.Y.: Appleton-Century. 1937.

Gracchus, G. S. The renaissance of democracy; a political essay on the philosophy of solidarism. Pp. 153. N. Y.: Pegasus Pub. Co. 1937.

Hedger, George A., and Others. An introduction to western civilization. Pp. 854. Garden City (N.Y.): Doubleday. 1937.

Honnert, Robert. Catholicisme et communisme. Paris: E. S. I. 1937.

James, C. L. R. World revolution, 1917-36; The rise and fall of the communist international. Pp. 429. London: Secker & Warburg. 1937.

Jellinek, Frank. The Paris commune of 1871. Pp. 447. N.Y.: Oxford. 1937.

Kagawa, T. Brotherhood economics. Pp. 224. London: Student Christian Movement. 1937.

Kellett, E. E. The story of dictatorship from the earliest times till today. Pp. 232. London: Nicholson & Watson. 1937.

Krupa, Hans. Carl Schmitts Theorie des "Politischen." Pp. 47. Leipzig: Hirzel. 1937.

Laidler, Harry W. Looking forward; outlines for discussion and action. Pp. 30. N.Y.: League for Indus. Democ. 1937.

Leacock, Stephen. The gathering financial crisis. London: L. Dickson. 1937.

Lenin, Nikolai. Selected works. Vol. 7: After seizure of power. Pp. 530. N.Y. Int. Pubs. 1937.

Lewis, Edward R. A history of American political thought from the civil war to the world war. Pp. 561. N.Y.: Macmillan. 1937.

Lloyd, Henry D. Wealth against commonwealth. Pp. 384. Wash.: Nat. Home Lib. Found. 1937.

McCormick, Anne O'Hare, and Others. Propaganda—asset or liability in democracy? Pp. 31. N.Y.: Amer. Book. 1937.

MacIver, Robert M. Society; a textbook of sociology. Pp. 608. N.Y.: Farrar & Rinehart. 1937.

Mill, James. Essay on government. Pp. 93. N.Y.: Macmillan. 1937.

Mitchell, Wesley C. The backward art of spending money and other essays. Pp. 421. N.Y.: McGraw-Hill. 1937.

Osborn, Reuben. Freud and Marx; a dialectical study. Pp. 285. N.Y.: Equinox Co-op. Press. 1937.

Pabst, W. R. Jr. Butter and oleomargarine: an analysis of competing commodities. Pp. 112. N.Y.: Columbia Univ. Press. 1937.

Penty, A. J. Tradition and modernism in politics. Pp. 183. London: Sheed & Ward. 1937.

Poteat, Edwin M., Jr. The social manifesto of Jesus. Pp. 255. N.Y.: Harper. 1937.

Readings in Leninism. What is Leninism? Pp. 124. Theory of proletarian revolution. Pp. 155. Dictatorship of the proletariat. Pp. 122. Strategy and tactics. Pp. 96. London: Lawrence & Wishart. 1937.

Recovery problem in the United States. Pp. 723. London: Faber. 1937.

Riggleman, John R., and Frisbee, Ira N. Business statistics. Pp. 702. N.Y.: McGraw-Hill. 1937.

Smith, Sir Hubert Llewellyn. The borderland between public and voluntary action in the social services. Pp. 25. London: Oxford Univ. Press. 1937.

Stamp, Sir Josiah C. The science of social adjustment. Pp. 181. N.Y.: Macmillan. 1937.

Trencheny, J. T. For peace and good; a handbook of contemporary politics. Pp. 174. Brooklyn: Economists Inc. 1937.

Ullah, Ata. The coöperative movement in the Punjab. Pp. 512. London: Allen & Unwin. 1937.

Vallon, Louis. Socialisme experimental. Paris: Ed. du Centre Polyt. d'Études Économiques. 1937.

Von Mises, Ludwig. Socialism: an economical and sociological analysis. Pp. 528. N.Y.: Macmillan. 1937.

White, William Allen. Forty years on Main Street. Farrar & Rinehart Inc. 1937.

Zhdanov, A. A. Organizational problems of the communist party. Pp. 47. N.Y.: Workers Lib. Publishers. 1937.

Articles

Act of State. Staatssubjekt und Staatsakt. *Erich Jung.* Archiv f. Rechts- und Sozialphilos. Apr., 1937.

Calhoun. Calhoun and the modern state. *Charles M. Wiltse.* Va. Quar. Rev. Summer, 1937.

Capitalism. The war of the machines. *D. Marshall.* Catholic World. May, 1937.

———. Prices: fixed or free? *Fortune.* June, 1937.

———. Can the small business man survive. *John Allen Murphy.* Harper's. June, 1937.

———. Special obstacles to full employment in a wealthy community. *W. B. Reddaway.* Econ. Jour. June, 1937.

———. Has capitalism broken down? *Ramsay Muir.* Contemp. Rev. June, 1937.

———. The middle way in American industry. *D. B. Copland.* Yale Rev. Summer, 1937.

Censorship. Fighting the censor. *William P. Carney.* Scribner's. June, 1937.

———. Ways of the oriental censor. *Wilbur Burton.* Fortnightly. June, 1937.

Church and State. Some aspects of religion and politics in England, 1660-1767. *Charles F. Mullett.* Southwestern Soc. Sci. Quar. June, 1937.

Civilization. The Europeanization of the Orient. *Hans Kohn.* Pol. Sci. Quar. June, 1937.

Communism. Communists and the united front. *Georgi Dimitroff.* Communist. June, 1937.

Conservatism. Recipe for conservatives. *D. W. Brogan.* Va. Quar. Rev. Summer, 1937.

Contemporary Politics. Social and political tendencies of the present day. *T. N. Whitehead.* Harvard Bus. Rev. Spring, 1937.

———. The conflict of ideologies. *Ernest Barker.* Int. Affairs. May-June, 1937.

Coöperation. Coöperatives in America. *Marquis W. Childs.* No. Am. Rev. Summer, 1937.

Corporatism. Syndicalism, corporatisme et état corporatif. *R. Bonnard.* Rev. du Droit Pub. Jan., Feb., Mar., 1937.

Democracy. La crise de la propriété bâtie et sa solution démocratique. *J. Sabatier.* Rev. Pol. et Parl. May, 1937.

———. Militant democracy and fundamental rights. *Karl Loewenstein.* Am. Pol. Sci. Rev. June, 1937.

Dictatorship. The dictatorial drift. *John Bassett Moore.* Va. Law Rev. June, 1937.

———. The peasant as evil genius of dictatorship. *Carl J. Friedrich.* Yale Rev. Summer, 1937.

Economics. Economics today. *Gerhard Colm.* A note of dissent on "economics today." *Max Ascoli.* Social Research. May, 1937.

Fascism. Pawns for fascism—our lower middle class. *Reinhold Niebuhr.* Am. Scholar. Spring, 1937.

- . Fascism versus communism. *E. E. Hale*. Southwestern Soc. Sci. Quar. June, 1937.
- . Oriental fascism. *A. Morgan Young*. Contemp. Rev. June, 1937.
- Finance.**—Classificatory note on the theory of public finance. *Stewart Bates*. Canadian Jour. of Econ. and Pol. Sci. May, 1937.
- Government and Business.** Government training centres for industry. *B. T. Reynolds*. Contemp. Rev. June, 1937.
- Maitland.** Maitland as a sociologist. *Ernest Barker*. Sociological Rev. Apr., 1937.
- Money.** Le contrôle du crédit. *Roger Picard*. Rev. Pol. et Parl. May, 1937.
- . The prospect of inflation. *Frank D. Graham*. For. Affairs. July, 1937.
- Opinion.** Public opinion mechanisms among primitive peoples. *Margaret Mead*. Cartoons. *I. S. Johnson*. Peasants and propaganda in Croatia. *Dinko Tomasic*. Homogeneity of opinion among liberal leaders. *George W. Hartmann*. Presidential inaugural addresses—a study in verbal symbols. *John McDiarmid*. Eye vs. ear in moulding opinion. *Frank R. Elliott*. Need for study of the news-reels. *Edgar Dale*. Toledo businessmen tell their story. *Joseph K. Close*. Pub. Opinion Quar. July, 1937.
- Personnel.** A philosophy of skill in politics. *T. V. Smith*. Kan. Municipalities. Feb., 1937.
- . Brains in government. *A. Mervyn Davies*. Forum. May, 1937.
- Political Movement.** The pattern of a successful political movement. *Theodore Abel*. Am. Sociol. Rev. June, 1937.
- . Lenin's application of Marx's theory of revolutionary tactics. *Frances Bennett Becker*. Am. Sociol. Rev. June, 1937.
- . Stalin on mastering bolshevism. *Jack Stachel*. Communist. June, 1937.
- Political Philosophy.** Schillings Begründung seiner biologischen Staatsphilosophie. *Hans J. Wolf*. Archiv f. Rechts- und Sozialphilos. Apr., 1937.
- . Staatsphilosophie. *Ernst R. Huber*. Politische Pädagogik und Staatswissenschaft. *Gerhardt Giese*. Zeit. f. Gesamte Staatswissenschaft. Vol. 97, no. 3. 1937.
- Political Science.** Suggestions for a general index for political science. *Carl J. Friedrich* and *Mary C. Trickett*. Am. Pol. Sci. Rev. June, 1937.
- Popular Front.** The schools and the people's front. *Richard Frank*. Communist. May, 1937.
- Press.** The correspondent in Spain. *Lester Ziffren*. Pub. Opinion Quar. July, 1937.
- Pressure.** Government by pressure. *George E. Sokolsky*. Atlantic. June, 1937.
- Propaganda.** Education and propaganda. *Carl Joachim Friedrich*. Atlantic. June, 1937.
- . Propaganda as an instrument of national policy. *Bruno Lasker*. Pacific Affairs. June, 1937.
- . President Jackson's propaganda agencies. *E. M. Eriksson*. Pacific Hist. Rev. Mar., 1937.
- Psycho-Analysis.** A psycho-analytic approach to the interpretation of group phenomena. *Melitta Schmideberg*. Life and Letters Today. Summer, 1937.
- Race Relations.** Statutory means of impeding emigration of the negro. *Leo Aklunas*. Jour. of Negro. Hist. Apr., 1937.
- Radio.** Commercial broadcasting and civic education. *Thomas H. Reed*. International broadcasting. *Silas Bent*. Pub. Opinion Quar. July, 1937.
- Redistribution of Wealth.** Redistributing the national income. *A. A. Berle, Jr.* Yale Rev. Summer, 1937.
- Representation.** L'agriculture et sa représentation dans l'état. *Louis Salleron*. Rev. Pol. et Parl. May, 1937.

Spencer. Spencer's horrid vision. *Crane Brinton*. For. Affairs. July, 1937.

Technicways. Notes on the technicways in contemporary society. *Howard W. Odum*. Am. Sociol. Rev. June, 1937.

Tradition. Tradition and social justice. *Bernard Wall*. Dublin Rev. Apr.-June, 1937.

GOVERNMENT PUBLICATIONS

MILES O. PRICE

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AMERICAN

UNITED STATES

Congress

House of representatives. Civil service preference, retirement, and salary classification laws; compiled by Elmer A. Lewis, superintendent Document room . . . Washington: Govt. Ptg. Off., 1937. 233 p.

——— *Civil service committee*. To extend classified civil service to positions in emergency agencies and excepted positions in older branches of government, hearings, 75th Congress, 1st session, on H. R. 2700 . . . Washington: Govt. Ptg. Off., 1937. 185 p.

——— *Foreign affairs committee*. American neutrality policy, hearings, 75th Congress, 1st session, on H. J. Res. 147, to maintain neutrality of United States in event of war or threat of war between or among foreign nations, and H. J. Res. 242, to maintain neutrality between or among foreign nations, Feb. 16-23, 1937. Washington: Govt. Ptg. Off., 1937. 177 p.

——— *Judiciary committee*. Municipal bankruptcy compositions, hearings before subcommittee on bankruptcy and reorganization, 75th Congress, 1st session, on H. R. 2505, H. R. 2506, H. R. 5403, H. R. 5969, to amend act to establish uniform system of bankruptcy throughout United States, and acts amendatory thereof . . . Washington: Govt. Ptg. Off., 1937. 149 p.

——— *Old age pension plans and organizations, select committee to investigate*. Old-age pension plans and organizations, hearings, 74th Congress, 2d session, pursuant to H. Res. 443, authorizing appointment of select committee to inquire into old-age pension plans with respect to pending legislation. 1936-37. (Consolidated print, with corrections.) Washington: Govt. Ptg. Off., 1937. 2v.

Senate. Treaty provisions, defining neutral rights and duties, 1778-1936; presented by Mr. Nye. (Edited for research in international law under the auspices of the faculty of the Harvard Law School by Francis Deák and Philip C. Jessup.) Washington: Govt. Ptg. Off., 1937. 150 p.

——— *Executive agencies of government, select committee on investigation of*. Investigation of executive agencies of government, report to select committee . . . pursuant to Senate resolution 217 (74th Congress); no. 5, Financial administration of the federal government, prepared by Brookings institution. Washington: Govt. Ptg. Off., 1937. 110 p.

Senate. Judiciary committee. Federal licensing of corporations, hearings before subcommittee, 75th Congress, 1st session, on S. AP, to regulate interstate and foreign commerce by prescribing conditions under which corporations may engage or may be formed to engage in such commerce, to provide for and define additional powers and duties of federal trade commission, to assist the several states in improving labor conditions . . . Feb. 25-Mar. 5, 1937. pt. 2. Washington: Govt. Ptg. Off., 1937. 119-261 p.

——— *Presidential, vice presidential, and senatorial candidates in 1936, special*

committee to investigate campaign expenditures of. Investigation of campaign expenditures in 1936 report . . . Washington: Govt. Ptg., Off., 1937. 139 p.

Labor Department

Labor standards division. Digest and progress of principal labor bills in state legislatures meeting in 1937. Washington, 1937. 126 leaves. (processed)

Library of Congress.

Bibliography division. List of references on the electoral college, with emphasis on substitution of direct vote by the people for electoral college; compiled by Grace Hadley Fuller. Washington, 1937. 17 p. (processed)

Navy Department.

Naval intelligence office. Naval records and library office. Naval documents related to quasi-war between United States and France: Naval operations, Aug.-Dec. 1799. Washington: Govt. Ptg. Off., 1936, 676 p: maps.

State Department.

Results and significance of Buenos Aires conference, address by Cordell Hull, secretary of state, before council on foreign relations . . . Washington: Govt. Ptg. Off., 1937. 12 p.

In its study of injunction in federal courts since March 4, 1933, the Senate by resolution requested certain federal agencies to transmit to it letters giving information concerning injunctions or judgments issued or rendered by such federal courts. Several of these letters have been issued separately as Senate documents of the 75th Congress, 1st session. Those reporting include the federal power commission, interior department, national mediation board, railroad retirement board, securities and exchange commission, social security board, Tennessee valley authority, the veterans' administration, and the works progress administration.

STATE AND TERRITORIAL

CONNECTICUT

Commission concerning the reorganization of the state department. Summary of the report of the . . . commission . . . Hartford, 1937. 73 p.

KANSAS

State planning board. The national resources committee and the planning boards of 47 states. Topeka, 1937. 4 p. mim.

——— *People of Kansas.* A demographic and sociological study, by Carroll D. Clark . . . and Roy L. Roberts . . . with a foreword by William Allen White. Topeka, 1936. 272 p.

MASSACHUSETTS

State planning board. Progress report on state planning for Massachusetts, 1936. Boston, 1937. xlix, 441 p. (mim.)

MINNESOTA

University of Minnesota, Minneapolis. Pacific politics, by Joseph Ralston Hayden. Minneapolis, Univ. of Minnesota Press, 1937. 28 p.

Legislature. Committee on social legislation and relief. Report of the interim committee . . . to the legislature. St. Paul, 1937. 29 p.

NEW YORK

Department of health. Bureau of research and statistics. Oral argument of counsel on the New York state unemployment insurance law in the supreme court of the United States, October term, 1936. New York City. 1936. 96 p. typewr.

OREGON

Commission on governmental and administrative reorganization. A joint report on state governmental and administrative reorganization in Oregon . . . 51 p. (mim.)

TEXAS

University of Texas. Bureau of research in the social sciences. Municipal public reporting in Texas, by J. T. Barton. Austin, 1936. 98 p.

——— *The Texas municipal civil service*, by R. Weldon Cooper. Austin, 1936. 211 p.

VERMONT

Special commission to study the judicial system. Report . . . Montpelier, 1937. 32 p.

FOREIGN AND INTERNATIONAL

ARGENTINE REPUBLIC

Camara de senadores. Represion del comunismo. Informe y replica. Buenos Aires, Imp. Nac., 1937.

CHILE

Ministerio del relaciones exteriores. Jurisprudencia de la Cancilleria Chilena hasta 1865 . . . por Alberto Cruchaga Osso. Santiago, 1935. 688 p.

This is an important document in the diplomatic history of Chile.

CZECHOSLOVAKIA

Consulate-general at New York. Agreement between the Czechoslovak government and the Germans concerning minority policy. New York. 1937. 48 p. (mim.)

GREAT BRITAIN

Foreign office. Italy. Mediterranean. Declaration by His Majesty's government in the United Kingdom and the Italian government. London: H. M. S. O., 1937. (Treaty Series No. 14, 1937.)

——— Belgium. International position of Belgium. Documents exchanged between His Majesty's government in the United Kingdom and the French government and the Belgian government. London: H. M. S. O., 1937. (Belgium No. 1, 1937.)

ITALY

Ministero degli affari esteri. Trattati e convenzioni fra il regno d'Italia e gli altri stati. v. 41. Rome. 1937.

PERÚ

Ministerio de relaciones exteriores. Cuatro años de gobierno nacional y constructivo. Lima, 1937. 16 p. illus.

Results and significance of Buenos Aires conference, address by Cordell Hull, secretary of state, before council on foreign relations . . . Washington: Govt. Ptg. Off., 1937. 12 p.

URUGUAY

Ministerio de interior. La reforma de la constitucion. Montevideo, 1937.

LEAGUE OF NATIONS

General index to the records of the permanent mandates commission. No. 4. (Sessions XXI-XXX), 1932-1936. Geneva, 1937. 65 p. (VI. A. Mandates. 1937. VI. A. 1.)

Rules of procedure of the assembly. Revised edition, April, 1937. Geneva, 1937. 46. Title and text in French and English.

Committee for the international repression of terrorism. Report adopted by the committee on April 26, 1937. Geneva, 1937. 13 p. (V. Legal. 1937. V. 1.)

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ECONOMIC PREDILECTION AND THE LAW

SAMUEL HERMAN
Washington, D.C.

I

As 1937 brings into sharp focus the New Deal critique of the judiciary, the phrase "economic predilection" becomes a slogan rather than a subtle juristic evaluation. The famed dictum of Justice Holmes that there is an inarticulate major premise upon which major constitutional issues are decided¹ was necessarily made an issue in government by an Administration whose program is primarily economic. An Administration dedicated to war as governmental policy might similarly inveigh against "pacifistic propensity" in the judiciary. In the midst of the heat and controversy as to whether the integrity of the judiciary is impaired by a charge that judges adjudicate constitutional issues upon the basis of "economic predilection," it seems desirable to inquire into the possibility of formulating a disciplined judicial economics, to the end that there may be a realistic, tempered instrument for solving the major judicial questions of our time. The more sensitive jurists have expatiated upon the intuitive and subconscious aspects of judicial decision, but beyond stating that such factors exist they have, on the whole, continued to articulate their judicial reasonings in conventional legalistic form.² Legal tradition is usually successful in throwing the balance in favor of the seeming where the seeming and the actual are in conflict. What exceptions there have been have been of inestimable benefit to the law. They have brought wisdom, beauty, and strength to an ancient, oft-times sadly threadbare, technique. An example is the approach to law exemplified by the method of Mr. Brandeis both as advocate and justice.

¹ "The decision will depend on a judgment or intuition more subtle than any articulate major premise." *Lochner v. New York*, 198 U.S. 45, 76 (1904).

² Cf. Cardozo, *The Nature of the Judicial Process* (New Haven, 1921).

The brief filed by Mr. Brandeis while attorney for the state of Oregon in *Muller v. Oregon*³ is by now legendary. His mild citations to social and economic material represented a startling innovation. Mr. Felix Frankfurter, an astute commentator upon, and careful student of, the workings of the Court, referring to the *Muller v. Oregon* brief, said:

By a series of arguments and briefs he [Justice Brandeis] created a new technique in the presentation of constitutional questions. Until his famous brief in *Muller v. Oregon*, social legislation was supported by the courts largely *in vacuo*, as an abstract dialectic between "liberty" and "police power," unrelated to a world of trusts and unions, of large scale industry and all its implications. In the Oregon case, the facts of modern industry which provoke regulatory legislation were, for the first time, adequately marshaled before the court. It marks an epoch in the disposition of cases presenting the most important present day constitutional issues.⁴

The constitutional issue presented in *Muller v. Oregon* was whether an enactment by a state legislature providing for a maximum ten-hour day for women employed in laundries was constitutional under the due process clause of the federal Constitution. The Brandeis brief,⁵ prepared in 1907, seems to be a precursor, not only

³ 208 U.S. 412 (1907).

⁴ "Mr. Justice Brandeis and the Constitution," in *Mr. Justice Brandeis* (New Haven, 1932), p. 52.

⁵ A reading in 1937 of the brief filed by Mr. Brandeis as counsel for the defendant in error (October term, 1907, No. 107) shows a simple but highly lucid analysis of the effects of hours of labor which to present-day economists and sociologists would appear to be a conventional approach. The first part of this 113-page document reviews American and foreign legislation restricting the hours of labor for women. The second part of the brief has seven major heads and is outlined as follows:

- I. The Danger of Long Hours
 - A. Causes
 - (1) Physical Differences Between Men and Women
 - (2) The New Strain in Manufacture
 - B. Bad Effect of Long Hours on Health
 - (1) General Injuries from Long Hours
 - (2) Specific Evil Effects on Child-birth and Female Functions
 - C. Bad Effect of Long Hours on Safety
 - D. Bad Effect of Long Hours on Morals
 - E. Bad Effect of Long Hours on General Welfare
 - (1) State's Need of Protecting Women
 - (2) The Effect of Women's Overwork on Future Generations
- II. Shorter Hours the Only Possible Protection
- III. The General Benefits of Short Hours
 - A. Good Effect on the Individual Health, Home Life, etc.
 - B. Good Effect on the General Welfare
- IV. Economic Aspect of Short Hours
 - A. Effect on Output

of a series of recent argumentations before the Supreme Court of a more advanced economic nature, but also of the social science method, which, in the years subsequent to 1907, was emphasized so sharply by various major universities of the country.

In the thirty years that have elapsed since the Brandeis brief, the Supreme Court has been faced progressively with constitutional questions of a predominantly economic nature. Whatever the foundation of the "economic predilection" of the justices may be, an examination of the opinions in the leading cases decided by the Court since the World War, and particularly of the briefs and records therein, shows unmistakably that the Court has had presented to it, in a framework of legal concepts and legal terminology, to be sure, complex economic questions. It is apparent that the Court, as a judicial tribunal, has not simply utilized economic predilections haphazardly as points of departure for the solution of mere legal problems—it has been legally compelled to consider economic questions. And if, as is highly probable, the function of the Court as final arbiter of economic and social legislation is preserved, the coming years will find the Court faced with increasing frequency by economic questions of a gravity and importance quite beyond the range of traditional judicial review. In the present state of the law, these economic questions will of necessity be determined by judges upon the basis of "economic predilection," be

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- (1) Shorter Hours Increase Efficiency and this Prevents Reduction of Output
 - (2) Long Hours Result in Inferior Quality of Product
 - B. Effect on Regularity of Employment
 - C. Adaptation of Customers to Shorter Hours
 - D. Incentive to Improvement in Manufacture
 - E. Effect on Scope of Women's Employment
 - V. Uniformity of Restriction
 - A. Allowance of Overtime Dangerous to Health
 - B. Uniformity Essential for Purposes of Investment
 - C. Uniformity Essential to Justice to Employers
 - VI. The Reasonableness of the Ten Hour Day
 - A. Opinions of Physicians and Officials
 - B. Opinions of Employees
 - C. Opinions of Employers
 - VII. Laundries
 - A. Present Character of the Business
 - B. Bad Effect upon Health
 - C. Bad Effect upon Safety
 - D. Bad Effect upon Morals
 - E. Irregularity of Work

that predilection of the sort favored by the Administration of the day or not. Consequently, it is of paramount importance to determine whether or not the vague intuitive "predilection" by which the judges decide economic issues (while phrasing their decisions in legal terminology), should not, by the establishment of an overt discipline of law and economics, be tested by the dictates of reason, rather than by the psychological *indicia* implicit in purely legalistic reasoning.

Particularly in the last decade has it become apparent that in the more important cases before the Supreme Court the actual issues have been economic. Records and briefs filed before the Court have been heavily couched in economic phraseology, have utilized economic approaches, and have presented data differing in little respect from the data studied by academic economists. If students of jurisprudence still seriously entertain preconceptions that the Court functions smoothly in a tight little legalistic world, and has at its disposal a complete and adequate set of ideational tools and facilities, they may well refer to *Carter v. Carter Coal Co.*⁶ The records and briefs by the Petitioner, the Government, and the *Amici Curiae* are more treatises in economic policy than exposition of legal principle. They differ but slightly from, and in fact incorporate, normal economic research upon the bituminous coal industry. An object lesson in how detailed and technical the economic problems are, as presented to the Court, is to be found in examining the 289-page brief for the Petitioner (No. 636, October term, 1935), the 326-page brief for the Government Officers (Nos. 636, 651), and the briefs of the United Mine Workers of America (No. 631), the state of Indiana (No. 636), and the Non-Code Producers (No. 636). The transcript of the record could serve any instructor in political economy as a text upon the life and death of an industry.

Nor is *Carter v. Carter Coal Co.* an anomalous case. The method pursued by the Brandeis brief in *Muller v. Oregon* is improved upon in a long series of characteristic cases both preceding and antedating *Carter v. Carter Coal Company*. If the records, briefs, and opinions in the following cases are examined and contrasted, a new understanding of the work of the Court and, implicitly, a new attitude toward jurisprudence, must emerge: *New State Ice Company v. Liebmann* (state regulation of the manufacture, sale, and distri-

⁶ 298 U.S. 238 (1935).

bution of ice);⁷ *Nebbia v. New York* (state fixing of minimum and maximum retail price of milk);⁸ *Home Building and Loan Association v. Blaisdell* (state mortgage moratorium);⁹ *Panama Refining Company v. Ryan* (federal oil regulation);¹⁰ *Schechter Poultry Corporation v. United States* (validity of National Industrial Recovery Act);¹¹ *Local 167 v. United States* (violation of Sherman Act through combination in restraint of interstate commerce);¹² *Railroad Retirement Board v. Alton Railroad Company* (validity of Railroad Retirement Act);¹³ *United States v. Butler* (validity of Agricultural Adjustment Act);¹⁴ *Gold Clause Cases* (abrogation of gold clause stipulation in private contracts; acceptance of legal tender currency by gold certificate holders; abrogation of gold clause in government obligations);¹⁵ *Ashton v. Cameron County Water Improvement District No. One* (validity of Municipal Bankruptcy Act);¹⁶ *Sugar Institute v. United States* (unreasonable restraint of trade under the Sherman Act);¹⁷ *Morehead v. Tipaldo* (state minimum wage law for women and minors);¹⁸ *United States v. Constantine* (tax on liquor-dealers violating state law);¹⁹ *United States v. E. J. & E. Railway Company* (violation of commodities clause of the Interstate Commerce Act);²⁰ *Colgate v. Harvey* (state franchise tax statute);²¹ *McCandless v. Furlaud* (liability of stock promoters);²² *Ashwander v. Tennessee Valley Authority* (right of the federal government to acquire transmission lines and power facilities and to dispose of power);²³ *Hopkins Savings Assn. v. Cleary* (conversion of state savings and loan associations into federal);²⁴ *West v. C. & P. Tel. Co. of Baltimore* (valuation of property of a public utility for rate-making purposes);²⁵ *St. Joseph Stockyards Co. v. United States* (judicial review of rate-making);²⁶ *Borden's Co. v. Ten Eyck* (resale differential in state regulation of the price of milk);²⁷ *Mayflower Farms v. Ten Eyck* (classification in state regulation of the sale of milk);²⁸ *Jones v. Securities and*

⁷ 285 U.S. 262 (1932).⁸ 291 U.S. 502 (1933).⁹ 290 U.S. 398 (1933).¹⁰ 293 U.S. 388 (1934).¹¹ 295 U.S. 495 (1934).¹² 291 U.S. 293 (1933).¹³ 295 U.S. 330 (1934).¹⁴ 297 U.S. 1 (1935).¹⁵ 294 U.S. 240 (1934).¹⁶ 298 U.S. 513 (1936).¹⁷ 297 U.S. 553 (1936).¹⁸ 298 U.S. 587 (1936).¹⁹ 296 U.S. 287 (1935).²⁰ 298 U.S. 492 (1936).²¹ 296 U.S. 404 (1936).²² 296 U.S. 140 (1935).²³ 297 U.S. 288 (1936).²⁴ 296 U.S. 315 (1935).²⁵ 295 U.S. 662 (1935).²⁶ 298 U.S. 38 (1936).²⁷ 297 U.S. 251 (1936).²⁸ 297 U.S. 266 (1936).

Exchange Commission (registration of securities before use of mails in sale thereof);²⁹ *Whitefield v. Ohio* (commerce in convict-made goods);³⁰ *Great Northern Ry. Co. v. Weeks* (state tax assessment of railroad property);³¹ *West Coast Hotel Co. v. Parrish* (state minimum wage for women and minors);³² *Labor Board Cases* (collective bargaining in labor disputes affecting interstate commerce).³³

The written opinions rendered in the above cases do not completely assimilate the economic data presented to the Court in support of the respective positions taken by the litigants. So far as has been rationally possible, the opinions have striven to perpetuate the purely legalistic formulations which are the traditional heritage of the Court. But it is inconceivable that with the mass of economic data and argumentation before it, the Court has not found legalisms affected profoundly by the merits of the respective economic contentions. Outcroppings of economics in the opinions reflect the insistency with which the economic positions were argued. It is at least doubtful, upon the basis of these opinions, whether the "seamless web" of the law has sufficient tensile strength to be able to withstand the pressure of purely economic issues. Since a prime function of the judiciary is to articulate the premises upon which it decides, it seems pertinent to determine by what means judges may be freed to consider economic issues overtly and realistically. This requires some inquiry into the possibilities of establishing a preliminary cross-discipline of law and economics.

II

The contemporary confusion concerning the nature of the judicial process, as exemplified by the judiciary of the day, is a manifestation of a long-time dispute carried on within and without academic cloisters as to the true jurisprudence. Writers upon general principles in the common law have perpetuated an ancient faith in the universality of legal formulations. This has been concomitant to, but not completely analogous to, like attempts to establish morals and ethics as rigid intellectual disciplines. To the sweet uses of reason, the judiciary in all times has added the physical powers of government. A realistic school of jurisprudence

²⁹ 298 U.S. 1 (1936).

³⁰ 297 U.S. 431 (1936).

³¹ 297 U.S. 135 (1936).

³² March 29, 1937.

³³ April 12, 1937.

with articulate contemporary adherents off the bench has maintained that law is what the judges as officials do, and that the enunciation of principles is a type of rationalization premised upon psychological motivations. But schools of jurisprudence are localized phenomena: jurisprudence is a profession within a profession. Few lawyers systematize, or find it to their best interests as lawyers selling their talents to systematize, their thinking about the law. The antithesis of lawyer and philosopher was expressed artistically in caustic metaphors by Plato in approximately 340 B.C.³⁴ Yet Plato was a philosopher and not a lawyer. It is conceivable that Plato would have profited by listening to lawyers talk about lawyers and judges. There is characteristically a type of legal discourse among lawyers-out-of-court far different from the formal verbalization of pleadings, briefs, argumentations, and opinions. Much of this talk is of an economic nature. If records were kept of enough of these discussions, there would appear implicitly the essential elements of a realistic approach to the establishment of an intellectual discipline of law and economics.

A survey of the literature written since 1900 on the general topic of law and economics shows an uncritical acceptance by the economists on the one hand of the formulations of the lawyers, and of the lawyers on the other, of the concepts of the economists.³⁵ It is clear that neither group of writers has the necessary understanding and facility of manipulation of the technique of the other. The economist has attempted, as a bold demonstration of advanced thought, to translate the language of the law into economic terms, and the legal scholar has too patently displayed an unwelcome erudition by restating legal principles in economic terms. This insistent translation and reciprocal use of glossaries

³⁴ *Theaetetus*, c. a.

³⁵ Since 1900, some seventy-six articles bearing upon law and economics have appeared in the technical legal, economic, and political science literature of the United States and England. Some bear intriguing titles; viz., R. J. Hellman, "The Correlation Between the Sciences of Law and Economics," 20 *Calif. Law Rev.* 379 (1932), and Woodrow Wilson, "Interrelation of Sociology, Politics, and Jurisprudence," 5 *Amer. Polit. Sci. Rev.* 1 (1911). Of these, fifty-two have appeared since 1930. Frequently bolder than such intervening treatises and texts as Commons, *Legal Foundations of Capitalism* (New York, 1924), Beard, *An Economic Interpretation of the Constitution of the United States* (New York, 1913), and Laski, *Studies in Law and Politics* (New Haven, 1932), these articles unmistakably define the method of academic thought upon law and economics. The writer is at present engaged upon a detailed ideational analysis of the more significant of these writings.

has continued over a period of more than forty years as the scholastic substitute for a merger of disciplines and a liberation of thought from academic compartments. There has been polite, gentlemanly deference to departmentalization when the active pressing problems of society called for combined assault unthinkable in terms of genteel academic tradition.

It is true that if lawyers understood the meaning of economic terms their understanding of legal problems would be facilitated,³⁶ but this alone can scarcely result in that reorientation of discipline which is the central social problem of the day. Something more fundamental is involved.

When one speaks of the "fundamental," one thinks of Justice Holmes. It was he who first stated in authoritative language—words which are slowly changing the psychology of a generation of socially conscious lawyers, establishing an impetus which is only now being revealed as a burning problem in government—the proposition that there is a relativity to legal concepts. Justice Holmes changed the contour of legal thought. This may be illustrated by the bearing of the sit-down strike, which came to the United States in the early part of 1937, upon property right (a legal concept so dear to economists when they approach legal fields). Could the sit-down strike be legal? That lawyers asked the question amongst themselves is indicative of the influence of Justice Holmes. Two approaches appeared.

The first was that the right to possession was an attribute of the right to property. If possession was characteristic of complete property right, the sit-down strike could only be an invasion of that right. Since the universality of a legal proposition, according to a long established and well documented school of jurisprudence,

³⁶ The social utility of the judicial process varies in direct ratio to the comprehension of judges. Justice Holmes, in a letter to a friend (Holmes, *Book Notices, Uncollected Letters and Papers*, New York, 1936, pp. 163-164), said: "Probably you will find, as I do, that ideas are not difficult, that the trouble is in the words in which they are expressed. Every group, and even almost every individual when he has acquired a definite mode of thought, gets a more or less special terminology which it takes time for an outsider to live into. Having to listen to arguments, now about railroad business, now about a patent, now about an admiralty case, now about mining law, and so on, a thousand times I have thought that I was hopelessly stupid and as many have found that when I got hold of the language there was no such thing as a difficult case. There are plenty of cases about which one doubts, and may doubt forever, as the premises for reasoning are not exact, but all the cases, when you have walled up and seized the lion's skin come uncovered and show the old donkey of a question of law, like all the rest . . ."

must be maintained in order to assure that certainty in the administration of justice which is essential to government under laws, an invasion of property rights of whatever nature must result in the destruction of property rights, and so in the mechanical application of legal remedies devised to be utilized to stay the destruction and preserve the integrity of the property right.

Legal logic, which under the circumstances is merely syllogistic reasoning, must, under this view, march resolutely to its inevitable conclusion. The claim immediately made that the illegality of sit-down strikes need not be established, since self-evident, was a logistic conclusion premised upon the universality of the abstract legal conception of property right. When this is understood, the emotional expressions over the sanctity of our economic institutions and expressions of fear for all property and for all the numerous and subtle variations of property right may be dismissed as of secondary importance—or perhaps better understood by the formulations of psychologists. The isolation of this logical process may be traced to the formal logic, once so highly polished by the scholastics of the Middle Ages, and discarded as an intellectual tool in other disciplines, with the fruition in modern times of the experimental, pragmatic, scientific process.

"General propositions do not decide concrete cases," said Justice Holmes.³⁷ He said again and again that all important legal distinctions are distinctions of degree.³⁸ "I do not suppose that civilization will come to an end whichever way this case is decided."³⁹ "The Fourteenth Amendment does not enact Mr. Herbert Spencer's *Social Statics*."⁴⁰ The implications of these statements have not yet been explored to their fullest. Those who maintained that the sit-down strikes were not necessarily illegal virtually contended that there was no immutable definition of the right to property, but that distinctions could be made within the field of property legally dependent upon the social and economic *milieu* in which a justiciable question arose.

³⁷ *Lochner v. New York*, 198 U.S. 45, 76 (1904), cited *supra* note 1.

³⁸ See, *inter alia*, *Louisville Gas and Electric Co. v. Coleman*, 277 U.S. 32, 41 (1927); *Springer v. Philippine Islands*, 277 U.S. 189, 209, 210 (1927); *Panhandle Oil Co. v. Knox*, 277 U.S. 218, 223 (1927).

³⁹ *Haddock v. Haddock*, 201 U.S. 562, 628 (1905). Contrast with the dissent of Justice McReynolds in the *Gold Clause Cases*, 294 U.S. 240, 381 (1934): "Loss of reputation for honorable dealing will bring us unending humiliation; the impending legal and moral chaos is appalling."

⁴⁰ *Lochner v. New York*, 198 U.S. 45, 75 (1904), cited *supra* notes 37 and 1.

And this permitted a totally distinct method of legal analysis pursued characteristically as follows: (1) Consideration of sit-down strikes⁴¹ commences with a factual analysis of the social and economic circumstances out of which these strikes arise.⁴² So far as mere legality is involved, it is permissible to distinguish between (a) two clerks in a grocery store gaining possession of the premises during a period of the day when the proprietor is absent and refusing to permit him to return to his premises, and (b) a collective bargaining *impasse* in a huge industrial empire set up by means of a corporate device entirely fictional in its nature, created, fostered, and developed by lawyers in a purely ideational world of their own, where tens of thousands of employees on one hand set up their right to bargain against a management which has no ownership of the physical premises,⁴³ but nevertheless controls the destinies both of the employees and the corporation. (2) The owners, in the theory of the lawyers who invented the corporation, are the stockholders. Thousands of stockholders, each of whom has no effective voice in the policy of the corporation, most of whom are indifferent to all but dividends, but who in the aggregate constitute the

⁴¹ All strikes and all picketing were once criminal conspiracies in the common law.

⁴² Cf. the experiential analysis by Chief Justice Hughes of the economic nature of the industries involved in the Labor Board Cases (*National Labor Relations Board v. Jones and Laughlin Steel Corporation*; *National Labor Relations Board v. Fruehauf Trailer Co.*; *National Labor Relations Board v. Friedman-Harry Marks Clothing Company, Inc.*, April 12, 1937).

⁴³ Berle and Means, *The Modern Corporation and Private Property* (New York, 1932), pp. 124-125: "In examining the break-up of the old concept that was property and the old unity that was private enterprise, it is therefore evident that we are dealing not only with distinct but often with opposing groups, ownership on the one side, control on the other—a control which tends to move further and further away from ownership and ultimately to lie in the hands of the management itself, a management capable of perpetuating its own position. The concentration of economic power separate from ownership, has, in fact, created economic empires, and has delivered those empires into the hands of a new form of absolutism, relegating 'owners' to the position of those who supply the means whereby the new princes may exercise their power.

"The recognition that industry has come to be dominated by these economic autocrats must bring with it a realization of the hollowness of the familiar statement that economic enterprise in America is a matter of individual initiative. To the dozen or so men in control, there is room for such initiative. For the tens, or even hundreds of thousands, of workers and of owners in a single enterprise, individual initiative no longer exists. Their activity is group activity on a scale so large that the individual, except he be in a position of control, has dropped into relative insignificance. At the same time, the problems of control have become problems in economic government."

ownership of the corporation, confer or abdicate control to a management frequently representative of finance. (3) If property right has been divorced from control and has become, in the development of the social and economic structure, merely a proportionate right to receive a dividend (but no actual voice in policy), the foundation of the normal common law conception of property has gone. (4) Could it not reasonably be contended that the "property right" invaded by the sit-down strikers is a flexible concept adjudicable upon the basis of the circumstances under which the strike occurred? Should not equity courts entertain arguments as to why, under the proper circumstances, as courts of equity, they should decline to permit their process to be utilized to protect the "property right" of the management? (5) Were there not "distinctions of degree" here?

If lawyers, following an intellectual tradition exemplified by the finest jurist in modern times, could seriously entertain the latter approach, it follows that economists who have slavishly and uncritically accepted the conventional legal phraseology in which property rights and other legal concepts have been couched must have contributed little to the elucidation of those joint problems which are now vexing the governments of the world. For economic concepts must be in advance of legal concepts. The law of a state never rises higher than its economics.

III

If most legal distinctions are distinctions of degree, the line of demarcation is not necessarily a matter of legalistic determination. Nor is it true that there is a mystery of the law intelligible only to initiates. As applied by legal writers and educators, the process of exclusion and inclusion characteristic of legal reasoning is limited to the "facts" and does not extend to the rule or principle to be applied in justiciable situations. The tool of *stare decisis*—following of precedent—has been conventionally and factitiously utilized for fostering and maintaining the universal and immutable principle of law. If it is recognized that the principle itself is merely a linguistic vehicle for communicating a judicial attitude toward special factual situations, and is therefore a grammatical and rhetorical medium, it is to be concluded that, by and large, the fact situation creates the principle.

Lawyers whose everyday business it is to pursue lines of cases

for the purpose of establishing a rule which may be invoked in support of their side of a given issue, early in the course of their practice of law, shed regretfully the legal preconceptions which lead them to believe that the courts consistently apply like principles to like sets of facts. In too many cases have courts reversed themselves either explicitly or *sub silentio*. That courts in various jurisdictions may apply different principles to the same set of facts, arriving at conflicting conclusions, is a commonplace. The technique of distinguishing cases in order to arrive at a different result frequently gives rise to the creation of a new principle for the purpose of arriving at the desired result. There is no longer seriously entertained in the minds of jurists consciously aware of the implications of the judicial process a feeling that there is a body of law which needs only to be stated and applied.

If it be recognized by economists that lawyers and judges are becoming increasingly aware that law cannot serve its social purpose in an intellectual vacuum and must obtain its justification through, and be nourished by, the common social experience, an opportunity appears for the utilization of the methods, traditions, and discoveries of economics. The body of the law has expanded enormously. In modern times, the adjudicated and recorded cases have become so numerous that purely legalistic precedent may be found for any given legal proposition. The language of the law, i.e., the terminology in which authoritarian concepts are expressed, and the reasoning of the law, i.e., the permissible modes of thought entertained by judges, furnish the limitations and the directions within which economists must necessarily abide. But in adjusting a principle of action to social and economic reality, the technique of economists is increasingly of greater importance. Since law is concerned with decision and action, and economics with analysis and synthesis, the method of economists must be employed within the limitations of the law. In the drawing of the essential legal distinction whereby the legality of any new sets of facts is tested, economics can in good reason be utilized to furnish the point of departure for the legal distinction.⁴⁴

⁴⁴ This is the signification of statements such as: "The combination of economics with law is more likely to come from the exploration of case law by economists because the concrete problems of particular sets of fact are all that is really needed to bring about an approximation of legal and economic definition." C. A. Cooke, "The Legal Content of the Profit Concept," 46 *Yale Law Jour.* 436, 437 (1937).

Much of the legal mystery may be dispelled if it is understood that law, being of necessity related to action and decision, must in its application be behind the actual economic reality. There is a demonstrable lag between the formulation of a legal rule and the social and economic march of events. This is because law is government, whereas economics is the concern of government. Government represents the paramount and sovereign power in society necessarily superior, in theory, to the various powers, economic and social, allocated amongst the various groups within society.⁴⁶ The expression of a rule of law to govern society as a whole must by the very generality of its application be belated in its appearance. The lag between the law and the reality with which it must deal therefore becomes the subject-matter of a merged discipline of law and economics. The measurement of the lag, the understanding of the respective utilities for such measurement of the heretofore closely guarded and jealously protected techniques of law and economics, is the mutual problem with which both lawyers and economists must deal in meeting the progressive crises of the contemporary world. To achieve this objective, both economics and law must become secular, operational, and vulgar.

Education is offered as an answer to practically any social problem of major significance. But is it meaningless to say that the approach to a merger of disciplines of law and economics is through the re-education of a generation of lawyers and economists? The difficulty with conceiving problems of immediate practical significance in terms of education is that education itself has been formalized into a discipline of its own with a professional universe of discourse. There is, it is apparent, more true education to be found outside of the universities in the field which law and economics must occupy. In the teaching of law, the experience outside of the law school is so far removed from the legalisms taught by rote in the law schools that more than a mere deficiency in legal pedagogy is revealed. The fact that the lawyer must unlearn a good deal of the law taught him and make readjustments in his own understanding of the value of the methods he has assimilated is serious and real—and of as much concern to society as to the deans of the law schools. The distinction between the legal scholar and the lawyer, and the noticeable feeling in each that there is

⁴⁶ Cf. Merriam, *Political Power; Its Composition and Incidence* (New York, 1934).

small contact between the two, shows how wide is the break between law in action, discovered and learned by the trial and error of law practice, and the carefully polished aggregates of legal principles, worked over with infinite patience in distinguishing slight facts by the legal scholars. There is more than mere social waste in making the necessary readjustments between law in the law schools and law in action. There are, in this process, those emergent disillusionments and futilities which have operated to rob the law of its intellectual integrity as a profession. And this is true, not because the law professors and the professional legal scholars have not carried out with infinite nicety their art of reconciling irreconcilable cases, but because the lawyers have discovered that the stuff of the law is not truly that delicate, highly polished artificiality propounded by the legal scholars.

The truth of the matter is that law as practiced is a prediction of what judges will do by lawyers trained in legal terminology and judicial methods of thinking. There are no intellectual reservoirs from which truth may be drawn to startle judges with revelation. There is, at best, a highly developed and subtle dialectical process by which judges may be convinced of the merit of a given proposition by hearing the best statement of what they already believe. What judges believe may be discovered by careful adherence to the patterns of the judges' legal training and social and economic background, within the confines of judicial power. Nor is the judicial power so carefully circumscribed by either the legislators or the common law that there is not within the range of judicial power a measure of judicial discretion within which psychology, economic predilection, political motivation, and sociological influence may not operate. Within this range of judicial discretion, the width and breadth and nature of which have not yet been adequately studied (and indeed furnishes a rich field for realistic legal research), the determinative and characteristic quality of the judicial process may be localized. For it is within this range of action that judges make policy, draw lines for the guidance of society between what is permissible and what is not permissible, and exercise one of the most serious and least understood of governmental powers.

The fact that judges are primarily officials and exercise governmental power does not seem, at first impression, to be a startling concept. Yet if applied consistently to legal education and scholar-

dom, its implications must of necessity permit the influx into the law of the social sciences and, particularly, of that method of thought within the social sciences designated as economics. The *a priori* nature of law immediately loses much of its utility, even from the point of view of intellectual discipline. Instead, the application of the techniques, aptitudes, traditions, and experiences of the law to the current social situations with which government must deal is the primary problem. To understand this is at once to liberalize the law and to establish the foundations of the cross-discipline of law and economics with which these comments are concerned.

It is true that law must be taught and that economics must be taught, and so it is true, also, that law and economics must be taught. By teaching, it must be assumed that there will be furnished to the practitioners of government a method of articulation, an efficiency of application, which would dignify and facilitate the practice of the governmental arts.

To distinguish the seeming and the actual is the gravest problem in teaching law and economics. And this, apparently a simple statement of what is accepted as elementary truth in all advanced "education," is a difficult, as well as an ultimate, objective. There is growing advocacy of reestablishing the verities of the *trivium*—grammar, rhetoric, and logic—in the higher learning in America. It has been pointed out that the raw empirical data with which the social sciences and the humanities have been concerned, with greater and greater emphasis since the birth of pragmatic philosophy, have tended to swamp scholastic investigation with uncorrelated facts and undigested material. Presumably there may be ground for entertaining a belief that intellectual verities have been forfeited in the surge toward empirical data. Perhaps it is true, as a number of reputable educators contend,⁴⁶ that it is time to call a halt to promiscuous fact-gathering and to return to the precision of formalized thought requisite to "cultivation of the intellect." But if the social sciences suffer from the enthusiasm of those who would uncritically emulate the natural sciences, the law suffers grievously from uncritical adherence to the *trivium*. If the criticism levied against the social sciences as a whole is true of economics as taught (including research), the solution for a cross-discipline of law and economics would seem to be a relaxation of the pragmatic

⁴⁶ Cf. Hutchins, *The Higher Learning in America* (New Haven, 1936).

method in economics and of the *trivium* in the law. For in the law it is now essential that actual contemporary data be utilized with a freedom limited only by the verifiable methods employed by the social sciences for testing data. While educators, and especially educators who have been disillusioned law students in their day, may speak contemptuously of the quality of "intellectual discipline" necessary to produce successful lawyers, they might do far better for the lawyers they disown, and hence for society as it is, by breaking down, rather than by fostering, the dualism of the lawyer as a success and the law as a discipline.

It would be a fearful and wonderful thing if competent economists and competent lawyers should confess to each other the limitations of their respective methods, freely and openly, and arriving, through a process of elimination, at concepts understandable to each, should proceed from there to invent a new vocabulary with words and phrases connotative of that which is true of both disciplines; and thereafter, having this new vocabulary, should advance slowly and critically to measure and articulate rules of conduct more closely adjusted to the actual facts. But pride of terminology is the most stubborn of all forms of pride of authorship.

Is there a point of departure from which, not sacrificing the established and certified bodies of knowledge with which law and economics at present deal, an experimental step may be taken in postulating and verifying the teaching of law and economics?

It is not difficult to point to the data which must be employed. They are here and now in a world which trembles under the stress of surging forces. Various new economies originating in the penumbra of decay of the old, are now progressively dramatized in actual visible conflict. There are in existence here and now capitalistic and socialistic economies, with democratic, fascistic, and communistic governmental orderings. To localize in the contemporary world the sphere of law and economics becomes the primary and paramount task. The conditions of this localization are the elimination of those emotional, psychological, and non-rational elements which furnished the impetus bringing into being the present world situation. The importance of these factors is, of course, evident, but for law and economics as a merger of discipline, the sound and the fury, the tumult and the shouting, the mutations of political action, and the methods of achieving power are secondary. Of high

significance is the determination, first, of what is being done in economies on the march in the contemporary world; second, of how it is being done. Elimination of the non-rational is and must be the first step in teaching law and economics.

If, by the application of critical and tempered analysis, it can be agreed that there are characteristic economies in course of being sufficiently revealed to serve for purposes of study, there must then be evolved (by properly orientated research) a statement of the functions of legal and economic formulations in making rationally tenable the actual application of the power of the state to the regulation or control of economic activity. By "rationally tenable" is meant an understanding of the devices by which those in power attempt ideationally to convince the governed of the reasonableness of the methods by which they are governed. For the common experience of men as political animals is that no matter how strong is the emotion by which they may be originally impelled, they seek with growing insistence for the rationalization to which they may cling in the time when their emotions dim. The reasoning of the law, as it embodies implicitly formulations extraneous to the law, is that rationalization.

When the functions of formulations are considered critically, investigation, in the very nature of the problem, must proceed into philosophical fields. Inevitably, the findings of epistemological inquiries must be employed. Since the meaning of meaning is the basis of the understanding of formulations, the technique of verbalization requires an examination of the utility and value of the abstract in law. For it does not necessarily follow that a realistic jurisprudence is one which would inhibit or destroy abstractions or deny "principles." The utility of the abstract as an efficient instrument for expressing generally the social meaning in given facts is visibly apparent in the administration of justice.⁴⁷ While there are recurrent dispute and sharp difference of opinion as to whether the Supreme Court properly interpreted or correctly employed the use of the abstraction, "due process of law," in the Fourteenth Amendment, there has been no attack upon the phrase itself. "Due process of law" has served as a connotative expression of no precise meaning employed by the judiciary to subsume a multitude of rules

⁴⁷ "A word is not a crystal, transparent and unchanged; it is the skin of a living thought and may vary greatly in color and content according to the circumstances and the time in which it is used." Holmes, J., *Towne v. Eisner*, 245 U.S. 418, 425 (1917).

of conduct for society. It remains to be seen whether those rules could have been developed more realistically without the integrative force of a vague phrase. The meaning of the abstract and its function in the thinking of judges is more adequately understood in terms of epistemology than of any revealed ideational technique, and it need not be pointed out that "due process of law" is merely one of an untold number of abstractions which furnish the framework supporting the structure of legal thought.⁴⁸ The realistic problem is not solely the determination of how judges have applied the abstraction or how it is likely that the judges will apply the abstraction, given a set of facts, but more the consideration of why it is that legal abstractions need to be employed, of why meaning cannot be communicated without utilizing an abstraction of no precise meaning for a point of departure.

While treatment of the value of the abstract is as important for these purposes as investigation of the meaning of the abstract, the two must be clearly distinguished. Questions of value are better approached comparatively. In the cross-discipline of law and economics, the value of the abstract must be measured in the light of the enhanced significance of the social sciences and the statistical methods employed so extensively therein. Is there a necessary inverse ratio in judicial thinking as between the use of the abstract and the use of statistical methods? Will the growing utilization of quantitative data and statistical approaches result in a diminution of the binding force of the abstract upon judicial thinking? Do the quantitative method and the techniques of measurement generally mean that abstractions will be progressively foregone, or are abstractions indispensable there also? Answers to these ques-

⁴⁸ A few: "legal entity," "rule of reason," "police power," "affected with a public interest," "flow of commerce," "public purpose," "public use," "public utility," "based on reason," "necessary and proper," "common carrier," "class legislation," "doing business," "good cause," "good faith," "impairing obligation of contract," "liberty of contract," "privileges and immunities," "beyond a reasonable doubt," "common nuisance," "quasi," "reasonable," "unlawful," "de facto," "current value," "cost of replacement," "delegation of legislative power," "eminent domain," "full faith and credit," "best interests of the public," "combination in restraint of trade," "equal protection of the law," "good reason to believe," "sale," "unfair competition," "denial of civil rights," "burden upon interstate commerce," "fair trial," "immaterial," "fair and reasonable (value) (price) (compensation)," "just cause," "conspiracy in restraint of interstate commerce," "unreasonable search and seizure," "meeting of minds," "market value," "property," "liberal construction," "implied," "just and reasonable rate," "lessening competition to a substantial degree."

tions will tend to reveal whether the detailed operational and statistical approach characteristic of Justice Brandeis' opinions within the framework of the "due process of law" abstraction will, if emulated and developed, result in bringing the law nearer to social reality.

And yet formulations, both legal and economic, serve to interpret to those who are governed the meaning of the power exerted by the state; serve also to quiet dispute, remove uncertainties, and direct the activities of individuals and groups in organized society. There is psychological need for certainty, and it is to the law that members of society look for absolute determination of many, if not all, questions of the relationship of individual and individual and of the one to the many.⁴⁹ If formulations must of necessity be expressed in abstractions, so that there may be general rather than particular connotation, will the development of the quantitative technique foster uncertainty? Is uncertainty socially desirable as contrasted with the quality of the certainty which the law has attempted to dispense?

It has been pointed out that contemporary data relative to contemporary economies are the stuff out of which a cross-discipline of law and economics must be established. But all economies, past and present, and presumably those of the future, will formulate economic control legally by means of statutes, orders, decrees, rulings, regulations, codes, agreements, and other devices of a legalistic nature. Legislative and administrative draftsmanship, whereby the rules of conduct are expressed, is a delicate and difficult art requiring a technique quite distinct from the discovery of the general policy which legislation (the word being used here to include quasi-legislative functions committed to the discretion of officials and administrative bodies) is to further. Legislative draftsmanship reveals universal qualities in whatever government governing. The legislation of Soviet Russia; the Third Reich, and the New Deal, for example, if compared solely upon the basis of phraseology and technique, will reveal similarities of an extensive and significant nature. If there is a science of legislation, little investigation of its nature has been made. The technique by which multitudinous situations, unforeseen and unpredicted, are to be governed by the formulation of the day is indicative of the common problems faced by all governments in attempting to make workable

⁴⁹ Cf. Frank, *Law and the Modern Mind* (New York, 1930).

the particular policy for which the government stands. In the specific considerations of legislation may be found the relationship between the economic formulation or theory and the method by which it is made to work. Establishing the principles of a science of legislation is one of the necessary steps which must be taken to arrive at a proper understanding of the relative rôles of law and economics. It is apparent that statistics, graphs, formulæ, interpretations of history and institutions, are not part of, and cannot be included in, the specific legislative formulations by which the particular regulation is to be achieved. Nevertheless, legislation in its present category as an art must be reduced to the intelligibility of a science, and the most fruitful approach to this end is, again, the establishment of cross-disciplines between law and the social sciences.

If *law and economics* is to be taught, the principles cannot be expounded on an *a priori* basis, and from considerations of pedagogical and pragmatic utility, if from no other, must emerge study of present governmental techniques in the United States and abroad. Study of characteristic governmental programs in the contemporary world will reveal typical techniques deriving logically from the uniform methods of legislation employed by all civilized governments. Much will be achieved by comparative analysis. Utilized to some extent in political science, the comparative method is admirably suited to illustrate, by the charting and measuring of significant variations, the actual techniques of government, as distinguished from the political structures by means of which the powers of government are allocated for administrative purposes.

It may be asked why such great stress is to be put upon the development of a cross-discipline of law and economics and why it is not equally important to study the relationship of law and psychology, law and sociology, law and politics. Surely economics is not the only social science, and surely almost all of the social sciences have something significant to contribute to the law. While other social sciences can serve to explain in realistic terms what the law is and ought to be, economics comes to the fore when the changing nature of the law as a method of government is dwelt upon. In a world whose great problems are economic, the law turns slowly on its axis, moving in the direction of the hopes and aspirations of governments. Whether this movement is to be impeded or freed

is crucial in the realization of economic goals. The goals of the governments of the world are all moral. Each with great solemnity places its objectives on the highest ethical planes. None of the ruling groups in any government will deny officially that they attempt to achieve the good, the just, and the true in terms of the many whom they govern. The great objectives set by governments are today in terms of the great evils which have resulted from economic maladjustments. Consequently, so far as law is utilized to facilitate the realization of economic justice, so far as it is the operative mechanism by which economic policy works, it must be understood first in terms of its relationship to the method and substance of economic science.

It is not to be denied that if judges understood the psychological motivations which lead them to decide in favor of one litigant rather than another, where the issues are nicely balanced, a better type of justice would be dispensed. Yet, in the end, this is merely saying that if any individual understood the motivations of his actions, he would be a better person. There is much work to be done in the psychopathology of the judicial process if it is assumed, as it has been in this discussion, that the law is what judges as officials do; but this is not to deny the immediate importance of the establishment of a cross-discipline of law and economics. The realities of government demand it; so, also, does the basic problem of the social sciences, for it may eventually prove that only through the medium of law will there result the marriage of the social sciences so long awaited.

CONSTITUTIONAL DEVELOPMENTS IN SAORSTÁT
EIREANN AND THE CONSTITUTION OF ÉIRE:
I, EXTERNAL AFFAIRS*

ARTHUR W. BROMAGE
University of Michigan

Under terms of the Treaty of 1921 between Great Britain and Ireland, it was agreed that: "Ireland shall have the same constitutional status in the Community of Nations known as the British Empire as the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, and the Union of South Africa, with a Parliament having powers to make laws for the peace, order and good government of Ireland and an Executive responsible to that Parliament, and shall be styled and known as the Irish Free State."¹ The status of the Irish Free State was further defined by this language: "Subject to the provisions hereinafter set out, the position of the Irish Free State in relation to the Imperial Parliament and Government and otherwise shall be that of the Dominion of Canada, and the law, practice and constitutional usage governing the relationship of the Crown or the representative of the Crown and of the Imperial Parliament to the Dominion of Canada shall govern their relationship to the Irish Free State."² The Imperial Government gave this treaty the force of law by the Irish Free State (Agreement) Act of March 31, 1922.³ To implement the treaty, Dáil Eireann, sitting as a constituent assembly, enacted a constitution for the Irish Free State in 1922. This constitution declared: "The Irish Free State (otherwise hereinafter called or sometimes called Saorstát Eireann) is a co-equal member of the Community of Nations forming the British

* Part II of this article, dealing with "Internal Affairs," will appear in the December issue. MAN. ED.

¹ *Articles of Agreement for a Treaty between Great Britain and Ireland*, 1921, Art. I; 12 Geo. 5, chap. 4.

² *Ibid.*, Art. II. The treaty provided further that the representative of the Crown in Ireland be appointed in like manner as the governor-general of Canada [Art. III]. Members of the Parliament of the Irish Free State were required to take the following oath: "I . . . do solemnly swear true faith and allegiance to the Constitution of the Irish Free State as by law established and that I will be faithful to H. M. King George V., his heirs and successors by law, in virtue of the common citizenship of Ireland with Great Britain and her adherence to and membership of the group of nations forming the British Commonwealth of Nations." [Art. IV.]

³ 12 Geo. 5, chap. 4.

Commonwealth of Nations."⁴ It was given the force of law by the Imperial Government in the Irish Free State Constitution Act of December 5, 1922.⁵

All this was not accomplished, however, without dissension in Ireland. In the years prior to the treaty settlement, the Sinn Féin party, with its objectives of an independent and united Ireland, had produced a surprising unanimity of opinion in Southern Ireland. In 1922, this accord was broken. It is a matter of history that Eamon de Valera as president of the legislative assembly of the Irish "Republic" split with the Irish delegation which, headed by Arthur Griffith, signed the treaty. Before Dáil Éireann he urged rejection of the treaty. When the Dáil ratified the treaty on January 7, 1922, by a vote of 64 to 57, de Valera resigned the presidency. The pro-treaty members of Sinn Féin then established a provisional government and Arthur Griffith became president of Dáil Éireann.

Pursuant to the publication of the treaty in 1921, de Valera had issued his alternative proposals in a series of articles generally known as Document Number 2. In this document, he set forth his theory of an independent Ireland in external association with the British Commonwealth of Nations.⁶ With Sinn Féin split into pro- and anti-treaty factions, internal peace was jeopardized. In June, 1922, fighting broke out between the Republican forces and the Free State army. The civil war then begun was waged until April 24, 1923. During the tempestuous year 1922, Arthur Griffith died and William T. Cosgrave became the next president of Dáil Éireann. In spite of the civil war, the constitution was put into

⁴ *Constitution of the Irish Free State*, Art. I.

⁵ 13 Geo. 5, Sess. 2, chap. 1. The constitution was put into operation by proclamation on December 6, 1922, as prescribed in Art. LXXXIII. Northern Ireland promptly exercised its option under the treaty to remain within the United Kingdom.

⁶ According to his plan, Ireland was to be associated with the "states of the British Commonwealth" for the purposes of "common concern." When acting as an associate, the rights, status, and privileges of Ireland were to be "in no respect less than those enjoyed by any of the component states of the British Commonwealth." He defined matters of "common concern" to include defence, peace and war, political treaties, and all matters then treated as of common concern by the states of the British Commonwealth. In matters of "common concern" there should be "such concerted action founded on consultation as the several governments may determine." For the purposes of the Association, de Valera was willing that Ireland should recognize "His Britannic Majesty as head of the Association." *Document No. 2*, secs. 2-6.

effect on December 6, 1922. Cosgrave and the pro-treaty forces rode out the storm and asserted the authority of the Free State government. De Valera and the Republicans were repulsed in their resort to force.

A great deal of legal grist was ground between the defeat of the Republican army in the civil war and de Valera's coming into power in 1932 as the leader of the Fianna Fáil party. During the administration of Cosgrave, which lasted from 1922 to 1932, Saorstát Eireann made many advances. The Imperial Conference of 1926 declared that the United Kingdom and the Dominions were "autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown and freely associated as members of the British Commonwealth of Nations." After the work of a conference of experts in 1929 and the approval of their work by the Imperial Conference of 1930, it was urged that the status of the Dominions should be given a legal basis. The Imperial Government, with the approval of the Dominions, took such action by the Statute of Westminster in 1931.⁷

In the first place, the Statute of Westminster provided that the Colonial Laws Validity Act of 1865 should not apply to any law made by the parliament of a Dominion after the statute became effective (December 11, 1931).⁸ It provided further that: "No law and no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of the Dominion."⁹ The parliament of a Dominion had "full power to make laws having extra-territorial operation."¹⁰ No act of the Parliament of the United Kingdom passed after the commencement of the Statute of Westminster could extend, or be deemed to extend, to a Dominion as part of the law of the Dominion, unless it was expressly declared

⁷ A. B. Keith, *The Governments of the British Empire* (1935), pp. 33-34.

⁸ 22 Geo. 5, chap. 4, sec. 1.

⁹ *Ibid.*, sec. 2, par. 2.

¹⁰ *Ibid.*, sec. 3.

in the act that the Dominion had requested and consented to its enactment.¹¹

The status of a Dominion in the British Commonwealth of Nations, however, rests upon more than legal definition. Only by mutual respect and willingness of the member-states to coöperate and negotiate can the Crown be, as the preamble to the Statute of Westminster states, the "symbol of the free association of the members." At the close of the Cosgrave administration, with the Statute of Westminster as a legal touchstone for Dominion status, Saorstát Éireann and the United Kingdom were closer to that reciprocal frame of mind than at any time before or since in recent history. At the same time, this very *rapprochement* between the Cosgrave administration and the United Kingdom was an element of vulnerability; for the Republican forces in Ireland could complain, rightly or wrongly, against a pro-British administration.

Additional factors soon combined to bring down the Cosgrave administration. A severe depression was abroad in the world. It was a time when the ruling party in a democracy felt more than normal resentments accumulating against it from economic forces. In addition, certain internal policies, such as the curbing of the spoils system in local units of government and the development of centralized control over local officers, hurt the political prospects of Cosgrave's Cumann na nGaedheal party. Finally, the issue of the land annuities reared its head. These annuities were really payments on the installment system by Irish tenants for land bought from English landlords. In a secret agreement signed by Cosgrave for the Free State and by John W. Hills for the British government in 1923, the former undertook to pay the full amount of the annuities accruing from time to time. This involved the actual collection from the tenant purchasers and the transfer of the money so collected to appropriate funds in England. This pledge was repeated in the Heads of the Ultimate Financial Settlement Agreement of 1926. Neither of these agreements was ratified by the Dáil, and that of 1923, as a matter of fact, was not presented to the Dáil until 1932.

During the years in which Cosgrave struggled to lay the foundations of Saorstát Éireann, the Fianna Fáil party steadily rose as an opposing force. The number of Fianna Fáil deputies returned amounted to 34 in June, 1922; 39 in August, 1923; 44 in June, 1927;

¹¹ *Ibid.*, sec. 4.

57 in September, 1927; and 72 in February, 1932. Until 1927, however, the Fianna Fáil deputies did not take their seats in the Dáil, as they refused to take the oath of allegiance to the English king as prescribed by the treaty and the constitution. During 1927, legislation was passed requiring candidates prior to nomination to declare their willingness to take the oath and disqualifying deputies who did not do so. Faced with this bitter pill, Fianna Fáil decided to submit to the oath, at the same time denouncing it as an empty formula. In 1927, most of the Fianna Fáil deputies entered the Dáil.¹² On the opposition bench, de Valera was able to make political capital of many issues, including the payment of the land annuities and the maintenance of the oath of allegiance. The stage was set for the transfer of power from Cumann na nGaedheal to Fianna Fáil.

✓ Fianna Fáil was able to obtain a majority in the Dáil in March, 1932, with the support of Labor, and de Valera became president of the Executive Council.) Forthwith the British government was notified that the Irish government proposed to discontinue the land annuity payments. Both governments were agreeable to arbitration of the issue but disagreed on the personnel of the arbitral tribunal. The British government favored a tribunal restricted to British subjects; the Irish government would not accept such a limitation; neither government would yield.¹³ President de Valera also notified the British government of the intention of Saorstát Eireann to abolish the oath of allegiance.¹⁴

The so-called economic "war" ensued. The British government retaliated in July, 1932, with an act permitting the Treasury to impose duties on imports from the Irish Free State if it appeared that failure of the Free State to fulfill obligations was resulting, or was likely to result, in a loss to the revenue of any public fund in the United Kingdom.¹⁵ Under Treasury order, duties were made effective on November 9, 1932.¹⁶

Another general election was held in Saorstát Eireann in January, 1933. In his election manifesto, de Valera noted among his objectives the abolition of the oath of allegiance and the retention of the land annuities by Saorstát Eireann. It could not be expected

¹² See Nicholas Mansergh, *The Irish Free State* (1934), pp. 254, 280-281, 287.

¹³ Henry Harrison, *Ireland and the British Empire* (1937), pp. 37-38.

¹⁴ See *supra*, note 2.

¹⁵ 22 and 23 Geo. 5, chap. 30.

¹⁶ *Statutory Rules and Orders*, 1932, No. 905.

that this would not disrupt whatever Anglo-Irish accord had been achieved by the course of events in the closing years of the Cosgrave government. Elsewhere in his manifesto, de Valera warned that a lasting peace between the people of Great Britain and Ireland could be achieved on one basis only: "That the people of Ireland shall determine freely for themselves what their governmental institutions are to be and what shall be the extent of their coöperation with Britain on matters of agreed common concern."¹⁷ In the general election of 1933, Fianna Fáil achieved a majority over all other parties, and the rule of de Valera went on without the necessity of coöperation from Labor.

In 1933, the Constitution (Removal of Oath) Act was passed by the Oireachtas (Parliament). It amended the constitution of the Irish Free State by removing the oath which had been prescribed for members of the Irish parliament by the treaty and incorporated in Article XVII of the constitution. To accomplish the removal of the oath, it was also necessary to strike from Article L of the constitution the clause which permitted amendments only "within the terms of the Scheduled Treaty." This phrase was accordingly deleted by the same amendment which removed the oath.¹⁸ In other words, a limitation on the amending power was relaxed by an amendment. In the same year, Constitution (Amendment No. 22) Act was passed amending Article LXVI of the constitution so as to terminate the right of appeal from the Supreme Court of the Irish Free State to His Majesty in Council.

The validity of both the Constitution (Removal of Oath) Act and the Constitution (Amendment No. 22) Act was sustained by the Judicial Committee of the Privy Council in *Moore v. Attorney-General for the Irish Free State* in 1935. This case arose out of a petition for special leave to appeal from a decision of the Supreme Court of the Irish Free State which dismissed an action of Moore and others against a number of defendants for alleged trespass on a fishery in the tidal portion of the River Erne.¹⁹ In spite of the abolition of appeal by Constitution (Amendment No. 22) Act, the Judicial Committee heard the argument. The decision of the

¹⁷ *Election Manifesto of de Valera, Jan. 20, 1933*, as printed in *The Irish Press*, June 15, 1937.

¹⁸ Constitution (Removal of Oath) Act, 1933, sec. 3; also known as Act of the Oireachtas, No. 8, of 1933.

¹⁹ *Moore v. Attorney-General for the Irish Free State* (June 6, 1935), 51 *The Times Law Reports* 504, 507.

Judicial Committee begins with the premise that the right of appeal to His Majesty in Council was implicit in Article II of the Anglo-Irish treaty. That article "specially ensured the right to petition His Majesty in Council, because that right was part of the law, practice, and constitutional usage then governing the relationship of the Crown or representative of the Crown and of the Imperial Parliament to the Dominion of Canada."²⁰ This was the standard set for Anglo-Irish relations and it involved, accordingly, the right to petition His Majesty in Council.

In the opinion of the Judicial Committee of the Privy Council then, the 1933 amendment to Article LXVI constituted an abrogation of the treaty. It could not be valid, therefore, unless the previous Constitution (Removal of Oath) Act was also valid. It was this act which struck from the constitution the phrase limiting amendments to the terms of the treaty. The view of the Judicial Committee was that both the Constitution (Removal of Oath) Act and the Constitution (Amendment No. 22) Act were valid, since they were within the competence of the Irish Free State pursuant to the Statute of Westminster. A pertinent summary included within the opinion shows the sweeping nature of the conclusions reached in this case:

The position may be summed up as follows: (1) The Treaty and the Constituent Act respectively form parts of the statute law of the United Kingdom, each of them being parts of an Imperial Act. (2) Before the passing of the Statute of Westminster it was not competent for the Irish Free State Parliament to pass an Act abrogating the Treaty because the Colonial Laws Validity Act forbade a Dominion Legislature to pass a law repugnant to an Imperial Act. (3) The effect of the Statute of Westminster was to remove the fetter which lay upon the Irish Free State Legislature by reason of the Colonial Laws Validity Act. That Legislature can now pass Acts repugnant to an Imperial Act. In this case they have done so.

It would be out of place to criticize the legislation enacted by the Irish Free State Legislature. But the Board desire [sic] to add that they are expressing no opinion upon any contractual obligation under which, regard being had to the terms of the Treaty, the Irish Free State lay. The simplest way of stating the situation is to say that the Statute of Westminster gave to the Irish Free State a power under which they could abrogate the Treaty, and that, as a matter of law, they have availed themselves of that power.²¹

²⁰ *Ibid.*, p. 506. In this view the Judicial Committee followed the earlier opinion rendered in *Performing Right Society v. Bray Urban District Council* (1930), 46 *The Times Law Reports* 359.

²¹ *Moore v. Attorney-General for the Irish Free State* (June 6, 1935), 51 *The Times Law Reports* 504, 507.

This decision of the Privy Council has been criticized by A. Berriedale Keith as terminologically inaccurate. He holds that the decision errs in asserting that the Statute of Westminster empowered the Free State to abrogate the treaty. He concludes: "What is meant is that the Free State can, in its view, legally remove any provision of the treaty from the statute-book of the State in which it was inserted by the constitution. Thus the State could repeal the authority of Article 7 of the treaty under which British forces are lawfully in occupation of Irish territory. But, of course, that is irrelevant to the binding force inter-Imperially, or as the Free State holds internationally, of the treaty, which continues to exist, unless and until it is abrogated by the assent of the two governments, parties to it, or it is formally repudiated by the Free State on the score that it was procured by *force majeure* or that relations have so changed since its conclusion that it has ceased to possess validity. But neither of these contentions would be legally convincing."²² ✓

Another criticism of the Judicial Committee's decision in *Moore v. Attorney-General for the Irish Free State* was made by Henry Harrison in 1937. He objected that such a broad pronouncement was unnecessary since the decision was merely that the appellate functions of the Council were validly terminated. It was a one-sided pronouncement after no more than a partial consideration of the whole argumentative field. It was a sterile pronouncement which did not look to the actualities behind the treaty and the Statute of Westminster. Of the extreme embarrassments involved in a purely legalistic view of the Anglo-Irish treaty, Harrison wrote: "If the Treaty was an imperialistically imposed law, here was a further imperialistically imposed law warranting its total extinction. Where was there room for contractual obligations in the midst of legal constraint? Is compliance with law a matter of contract with the State? And where is there any precedent for an Imperial Legislature conferring express legal powers upon a subordinate body to violate its contract with the sovereign authority."²³ If de Valera needed any encouragement to pursue a fearless policy in amending the constitution of Saorstát Éireann, he must have derived some from the sweeping generalizations in *Moore v. Attorney-General*.

²² *The Governments of the British Empire* (1935), pp. vi-vii.

²³ *Ireland and the British Empire* (1937), p. 196. For further discussion of this issue, see *post.*, pp. 860-881.

Meanwhile, economic hostilities continued between the United Kingdom and a Dominion. The Free State had discontinued payment of the land annuities; the United Kingdom had proceeded to erect tariff barriers against imports from Saorstát Eireann; and the Saorstát had undertaken a policy of sponsoring and protecting home industries by means of tariffs and quotas on many types of imports. De Valera accelerated plans for making Ireland less dependent on the English market. The Fianna Fáil government promoted the raising of wheat and sugar beets for domestic consumption, a corresponding reduction in grazing acreage, and the establishment of Irish factories protected by tariff policies. In 1935, the economic war was lessened in intensity by the Coal-Cattle Pact whereby the Irish market was re-opened to English coal in return for English concessions in lowering tariff duties on Irish cattle. Subsequent coal-cattle pacts followed this general formula. Nevertheless, the economic war intensified party strife in Saorstát Eireann. The Cosgrave opposition pounced on the war as a major blunder into which de Valera had stumbled by his uncompromising attitude on the land annuity payments. Within the Republican ranks of Fianna Fáil, there was engendered once more the attitude of "no-surrender" to the ancient foe.

On both sides of the Irish Sea, ulterior motives have been in the background of governmental policies. On the English side, the economic penalties have probably been more than mere retaliation over the land annuities. It seems only reasonable to assume that these were originally imposed in the hope of bringing the de Valera government to grief because of the removal of the oath from the constitution and because of other policies as well as the retention of the land annuities. When this failed, the English attitude became one of studied indifference. On the Irish side, the drive for economic self-sufficiency has been collateral to political objectives. De Valera did not rest the case for Saorstát Eireann on the achievement of Dominion status by the treaty and the further definition of that status by the Statute of Westminster. He has gone back constantly, as he did in his election manifesto of 1933, to the right of the people of Ireland to determine freely for themselves from time to time the extent of their coöperation with Great Britain. This point of view was emphatically expressed in 1936 and 1937.

At the time of the abdication of Edward VIII in 1936, the Irish Free State failed to coöperate with the other members of the Brit-

ish Commonwealth of Nations. The preamble of the Statute of Westminster stated in 1931 that it would be in accord with the established constitutional position of all the members of the Commonwealth in relation to one another "that any alteration in the law touching the Succession to the Throne or the Royal Style and Titles shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom."²⁴ Nevertheless, with His Majesty's Declaration of Abdication Bill which became law on December 11, 1936, the Irish Free State was not associated. The action of the Free State was unique among the Dominions. On December 11, 1936, the Free State adopted a Constitution (Amendment No. 27) Act, the effect of which was to eliminate all reference to the king and the governor-general from the constitution of Saorstát Eireann.²⁵ For example, Article XII provided that the Oireachtas should "consist of the King and one House, the Chamber of Deputies (otherwise called and herein generally referred to as 'Dáil Eireann')." In the case of this article, Amendment No. 27 removed the words "the King and." Again, Article XLI provided: "So soon as any Bill shall have been passed by Dáil Eireann, the Executive Council shall present the same to the Representative of the Crown for signification by him, in the King's name, of the King's assent." Amendment 27 changed this Article to read: "So soon as any Bill shall have been passed by Dáil Eireann, the Chairman of Dáil Eireann shall sign such bill and the same shall become and be law as on and from the date of such signature."

The most fundamental change was made in Article LI. This article, previous to December 11, 1936, declared:

The Executive Authority of the Irish Free State (Saorstát Eireann) is hereby declared to be vested in the King, and shall be exercisable, in accordance with the law, practice and constitutional usage governing the exercise of the Executive Authority in the case of the Dominion of Canada, by the Representative of the Crown. There shall be a Council to aid and advise in the government of the Irish Free State (Saorstát Eireann) to be styled the Executive Council. The Executive Council shall be responsible to Dáil Eireann and shall consist of not more than twelve nor less than five Ministers appointed by the Representative of the Crown on the nomination of the President of the Executive Council.

²⁴ 22 Geo. 5, chap. 4.

²⁵ At the time the Seanad had been abolished, and under the terms of Article L the Dáil could amend the constitution. Constitution (Amendment No. 27) Bill was introduced and passed in the course of a seven and one-half hour session.

Amendment No. 27 struck out much of the language of this article, including all reference to the king and his representative. Language was inserted, however, by which the Dáil might by statute set forth the terms of the association of the Irish Free State with the British Commonwealth of Nations. As revised, then, on December 11, Article LI declared:

There shall be a Council to exercise the executive authority and power of the Irish Free State (Saorstát Eireann) to be styled the Executive Council. Provided that it shall be lawful for the Executive Council, to the extent and subject to any conditions which may be determined by law to avail, for the purposes of the appointment of diplomatic and consular agents and the conclusion of international agreements of any organ used as a constitutional organ for the like purposes by any of the nations referred to in Article I of this Constitution. The Executive Council shall be responsible to Dáil Eireann and shall consist of not more than twelve nor less than five Ministers appointed in the manner hereinafter provided.²⁶

In this revision of Article LI, de Valera made it evident that he intended for the time being to continue the association of the Saorstát with the British Commonwealth. When he was asked directly in debate in the Dáil as to the Free State's position in the Commonwealth, he referred to the fact that Article I, which is mentioned as above in Article LI, continued as part of the fundamental law. This Article I read as follows: "The Irish Free State (otherwise hereinafter called or sometimes called Saorstát Eireann) is a co-equal member of the Community of Nations forming the British Commonwealth of Nations."

The intent of de Valera on December 11 was therefore clear. The aim was to abolish constitutional reference to the king and to the governor-general, but, on the other hand, to retain Dominion status. This was assured from the point of view of Irish law on December 12 by the passage of the Executive Authority (External Relations) Bill. This bill turned upon the constitutional peg which had been created in Article LI on the previous day. Since this bill set forth in detail the position of the Irish Free State in the British Commonwealth of Nations and recognized the abdication of Edward VIII, it is quoted herewith:

1.—(1) The diplomatic representatives of Saorstát Eireann in other countries shall be appointed on the authority of the Executive Council.

²⁶ The president of the Council was elected by Dáil Eireann. He nominated a vice-president. He appointed the other ministers with the assent of Dáil Eireann. [Art. LIII.]

(2) The consular representatives of Saorstát Eireann in other countries shall be appointed by or on the authority of the Executive Council.

2.—Every international agreement concluded on behalf of Saorstát Eireann shall be concluded by or on the authority of the Executive Council.

3.—(1) It is hereby declared and enacted that, so long as Saorstát Eireann is associated with the following nations, that is to say, Australia, Canada, Great Britain, New Zealand, and South Africa, and so long as the king recognized by those nations as the symbol of their co-operation continues to act on behalf of each of those nations (on the advice of the several Governments thereof) for the purposes of the appointment of diplomatic and consular representatives and the conclusion of international agreements, the king so recognised may, and is hereby authorised to, act on behalf of Saorstát Eireann for the like purposes as and when advised by the Executive Council so to do.

(2) Immediately upon the passing of this Act, the instrument of abdication executed by His Majesty King Edward the Eighth on the 10th day of December, 1936 (a copy whereof is set out in the Schedule to this Act), shall have effect according to the tenor thereof and His said Majesty shall, for the purposes of the foregoing subsection of this section and all other (if any) purposes, cease to be king, and the king for those purposes shall henceforth be the person who, if His said Majesty had died on the 10th day of December, 1936, unmarried, would for the time being be his successor under the law of Saorstát Eireann.

4.—This Act may be cited as the Executive Authority (External Relations) Act, 1936.

There was an attached schedule which set forth the Instrument of Abdication of Edward VIII.

Since the net result of the retention of Article I of the revised language of Article LI, and of the Executive Authority (External Relations) Act, was to maintain in Irish law the association of Saorstát Eireann in the British Commonwealth of Nations, the opposition in the Dáil raised serious questions as to the "true" republicanism of de Valera. The President was accused of abolishing only legal fictions by deleting reference to the king and the governor-general from the constitution, while the fundamental status of Saorstát Eireann as a Dominion apparently remained unchanged. Cosgrave as the leader of the Fine Gael opposition, a group made up of the former Cumann na nGaedheal, Centre, and other parties, twitted de Valera's Fianna Fáil party as a set of "royal Republicans" serving under three kings, George V, Edward VIII, and now George VI. President de Valera was quick to admit that he was abolishing legal fictions such as the authority of the representative of the Crown to sign bills. However, he insisted that this action would clarify the relations of England and Saor-

stát Eireann and would promote, in the long run, mutual understanding. The Fine Gael opposition in the Dáil made something of the point that one of the characteristics of a Dominion was an internal as well as an external relation to the Crown. The internal relation was expressed, in part, by the legal fiction that the king gave his assent to Dominion legislation through the representative of the Crown, i.e., the governor-general. De Valera's view was that this legal fiction was confusing and might better be abolished. He insisted that the removal of the king and the governor-general from the constitution did not affect the status of Saorstát Eireann as a Dominion, since Article I of the constitution remained. While the Fine Gael party opposed Amendment No. 27 on December 11, it voted with Fianna Fáil in support of the Executive Authority (External Relations) Bill on December 12. This bill, like the Constitution (Amendment No. 27) Bill, was passed after a single day of deliberation in the Dáil.

The action which the Fianna Fáil majority in the Dáil took on December 11 was no sudden whim or fancy. For some months, de Valera had made known his determination to abolish the office of governor-general and to introduce a president elected by the Irish people. Provision for this transition was scheduled to appear in the "new" constitution, and the new constitution was originally scheduled for introduction in the Dáil in the fall of 1936. However, the preparation of this document proved so formidable a task that November of 1936 had come and gone, and the new constitution was not yet completed. The crisis created by the abdication of Edward VIII was seized as an opportune moment at which to effectuate some of the ends proposed for the new constitution. Early in November, 1936, the annual Ard-Fheis of Fianna Fáil met in Dublin. President de Valera then set forth in a general way to these party representatives from all over Ireland the ideas which he had in mind for the new constitution. He made it clear that the governor-general would give way to a chief executive selected by the vote of the Irish people. He also declared that there would be introduced in the Dáil simultaneously with the new constitution a bill which would continue the association of Saorstát Eireann in the British Commonwealth of Nations. De Valera's subsequent proposals of December 11 and 12 were thus clearly part of a general program which had long been in preparation. The abdication of Edward VIII afforded an unexpected opportunity, but the neces-

sity of acting in haste precluded the introduction of the uncompleted constitution. De Valera therefore proposed to set up a temporary adjustment in which neither the governor-general nor a new officer (the proposed president) would function. This left only the one-house legislature and the Executive Council. In a way, this was not a radical change, since the senate had previously been abolished and the governor-general had already become a salaried nonentity. It did produce a make-shift arrangement in that the Ceann Comhairle (chairman) of Dáil Éireann was authorized to sign bills which became laws as on and from the date of such signature. The Executive Authority (External Relations) Bill was the embodiment of the de Valera plan to introduce simultaneously legislation dealing with the external relations of the Saorstát.

The draft of the new constitution (Bunreacht na hÉireann) was not ready until May 1, 1937. It was debated by the Dáil, passed by that body with few major amendments on June 14, 1937, and submitted to the people for a plebiscite on the day of the general election (July 1, 1937). Some 1,324,994 out of a total of 1,777,823 registered electors took part in the general election. In the voting on the constitution, 685,105 valid ballots were cast for and 526,945 against the charter, or an affirmative majority of 158,160.²⁷

In Bunreacht na hÉireann (1937), Article I of the constitution of 1922, establishing Saorstát Éireann as a co-equal member of the British Commonwealth of Nations, does not appear. Article I of the constitution of 1937 reads as follows: "The Irish Nation hereby affirms its inalienable, indefeasible, and sovereign right to choose its own form of Government, to determine its relations with other nations, and to develop its life, political, economic and cultural, in accordance with its own genius and traditions." Proceeding from this affirmation, the new constitution sets forth in subsequent articles the national territory, the jurisdiction of the parliament and government, the name of the State, the status of the State, and the derivation of the powers of government from the people. These declarations appear in Articles II-VI inclusive:

Article II. The national territory consists of the whole island of Ireland, its islands and the territorial seas.

Article III. Pending the re-integration of the national territory, and without prejudice to the right of the Parliament and Government established by this Constitution to exercise jurisdiction over the whole of that

²⁷ Figures given are those reported in *The Irish Press*, July 17, 1937.

territory, the laws enacted by that Parliament shall have the like area and extent of application as the laws of Saorstát Eireann and the like extra-territorial effect.

Article IV. The name of the State is *Éire*, or, in the English language, *Ireland*.

Article V. Ireland is a sovereign, independent, democratic state.

Article VI. 1—All powers of government, legislative, executive and judicial, derive, under God, from the people, whose right it is to designate the rulers of the State and, in final appeal, to decide all questions of national policy, according to the requirements of the common good.

2—These powers of government are exercisable only by or on the authority of the organs of State, established by this Constitution.

In these opening articles, de Valera undertakes to speak not only for Saorstát Eireann but also for Northern Ireland. The unilateral declaration with respect to the six counties known as Ulster has no legal effect upon their position in the United Kingdom. It did cause the to-be-anticipated political reaction of the majority dominant in Northern Ireland. The unity of Ireland may be regarded as a sincere aspiration on the part of the South, but partition is so deeply rooted in history, religion, and economics that the impact of Article II cannot be of much immediate effect. Partition is by no means a unilateral question; and no one knows this more thoroughly than de Valera. Article III is the logical consequence of the antagonism between Northern and Southern Ireland, and it postulates an indefinite period during which partition will continue. The name of the State is proclaimed to be *Éire*. At first, this was the case in both the Irish and the English texts of the constitution; but during the constitutional debates in the Dáil, de Valera accepted an amendment permitting the use of "Ireland" as the name of the State in the English translation.²⁸

Although Article V declares that Ireland is a sovereign, independent, democratic state, the constitution contains a loop-hole permitting the continued association of Ireland with the British Commonwealth of Nations. This is to be found in Article XXIX, which declares that: "For the purpose of the exercise of any executive function of the State in or in connection with its external relations, the Government may to such extent and subject to such conditions, if any, as may be determined by law, avail of or adopt any organ, instrument, or method of procedure used or adopted for the like purpose by the members of any group or league of nations with which the State is or becomes associated for the purpose of in-

²⁸ *The Irish Press*, May 26 1937.

ternational coöperation in matters of common concern.”^{28a} On the basis of this constitutional clause and the continuance of the Executive Authority (External Relations) Act, the intent to maintain the association of the sovereign, independent, democratic state of Ireland with the British Commonwealth of Nations is clear. Whether or not this unilateral action on the part of Ireland to avail itself of the Crown for limited purposes is satisfactory to the United Kingdom and/or the Dominions of the British Commonwealth of Nations is another question.

In the committee stage of the debates on the draft constitution, Deputy Frank MacDermot, an independent with pro-British sympathies, moved an amendment making a clear declaration as to the status of Ireland in the British Commonwealth of Nations. This amendment read: “The Irish Nation hereby declares its free and equal membership as a sovereign State of the British Commonwealth of Nations and, so long as such membership continues, recognizes King George VI and each of his successors at law as King of Ireland.” It was Mr. MacDermot’s view that only by making the Crown an integral part of the constitution could they ever hope to reconcile the North and the South of Ireland. In reply, President de Valera maintained that the relation of Ireland to the British Commonwealth of Nations was too controversial a subject for inclusion in the new constitution. The position, according to de Valera, was that the connection with the British Commonwealth of Nations was maintained by an act of the Oireachtas. This could be set aside if the people elected a government to do so. If, on the other hand, the people wished to continue this connection, they might do so. Neither course would involve constitutional change. De Valera’s view was one of resistance to any attempt to incorporate in the constitution a fixed policy with respect to external affairs.²⁹ The MacDermot amendment was defeated by a vote of 56 to 3. Fianna Fáil and Labor voted against the amendment; three independents supported it; and nine members

^{28a} However, Article XXIX stipulates that every international agreement to which Éire becomes a party shall be laid before Dáil Éireann. Éire shall not be bound by any such agreement involving a charge upon public funds unless the terms have been approved by the Dáil. These limitations do not apply to agreements or conventions of a technical and administrative character. No international agreement shall be part of the domestic law of Éire save as may be determined by the Oireachtas.

²⁹ *The Irish Press*, May 26, 1937.

of the Fine Gael party remained seated in the House while the division was taken.³⁰

When the debates on the constitution were concluded on June 14, 1937, Mr. Cosgrave announced that he would urge the people to defeat the document. The reasons which he stressed, however, did not pertain to the failure of the constitution to affirm the position of Ireland in the British Commonwealth of Nations. He had already said in a public utterance that Fine Gael was satisfied that the new constitution did not of itself bring Ireland "outside the scheme of these associated states."³¹ What he did do was to assail the new constitution for the powers which it gave to the prime minister whereby he could undermine the independence of his colleagues. He had previously attacked the grant of powers to the president. He also pointed to possible dangers to freedom of the press, of speech, and of the right of public meeting, and to possible discriminatory legislation against women under the new constitution. In closing the debates, de Valera expressed regret that the constitution was to be treated as an issue between the parties. He regarded the instrument as one drafted "by Irishmen for Irishmen."³²

It is a long, political jump from the Treaty of 1921 to the Irish constitution of 1937. The English may have regarded the treaty as reasonably final, but it was too much to expect that Saorstát Eireann would settle into the same constitutional status as that of Canada simply because the treaty so stipulated. Canada was re-

³⁰ Later, Mr. Cosgrave, as leader of the Fine Gael opposition, made a public statement explaining the failure of Fine Gael to vote for Mr. MacDermot's amendment. The amendment, according to Cosgrave, was framed to assert a principle contrary to the adopted practice governing the relationship of the Crown to the members of the British Commonwealth. The Crown was, according to the preamble of the Statute of Westminster, the symbol of the free association of the members of the Commonwealth. Any change in the royal style or titles could be made only after agreement among the member-states of the Commonwealth. The MacDermot amendment did not propose to recognize the Crown as the symbol of free association. It recognized George VI as the king of Ireland. Fine Gael took its stand on the treaty and the agreements reached by Imperial Conferences with respect to the definition of the Crown in relation to the members of the British Commonwealth (*The Irish Press*, June 7, 1937). This technical and ingenious explanation aside, it is obvious that Fine Gael was in an unfortunate dilemma. Had Fine Gael voted for the amendment, it would have been open to pro-British charges in the ensuing Irish election. By failing to vote for the amendment, Fine Gael was open to charges of insincerity in its stand for the Commonwealth connection.

³¹ *The Irish Press*, June 7, 1937.

³² *Ibid.*, June 15, 1937.

mote and loyal; the Saorstát was close at hand and rebellious. Canada had reached her position by a gradual evolutionary process. Nationalist Ireland had but recently flamed into revolt. To the Irish Republicans, dominion status fell too far short of the proclamation of the Irish Republic in 1916. In that Easter-week rebellion, the right of the people of Ireland to the ownership of Ireland and to unfettered control of Irish destinies had been proclaimed. The opening articles in the constitution of 1937 revert to that declaration. At the same time, Article XXIX and the Executive Authority (External Relations) Act of 1936 provide a grudging acceptance of association with the British Commonwealth of Nations. This association, according to de Valera's pronouncements, and now according to Irish law, is not one which flows from the contractual obligations of the Treaty of 1921. It is a status which is maintained by Ireland of her own free will. It is a status which may be changed by statute. It is a status which is not cast in the fundamental law, because, as de Valera holds, it is a controversial issue.

De Valera may be an enigma to some English statesmen, to Fine Gael supporters, and to extreme Republicans. In the light of Document No. 2 of 1922 and of the pressing necessities of Anglo-Irish relations, de Valera's constitutional moves of 1936 and 1937 are understandable. While claiming independence for Ireland, he simultaneously accepts a continuing association with the British Commonwealth of Nations. So the Irish question remains to plague the British Commonwealth of Nations as it once plagued the United Kingdom. A number of practical difficulties stand in the way of an Irish Republic not in association with the British Commonwealth of Nations. Paramount among these is the question of a united Ireland. The latter can never be achieved on the basis of a dissociated republic, unless some new and unforeseen changes occur in the temper of Ulster. Again, a dissociated republic would raise serious questions for Irish citizens who have been migrating to the United Kingdom by the thousands in recent years. Although Irish legislation of 1935 claimed that Irish citizens both within and without the Free State had national status only as such citizens, this could not deprive persons born in the Free State and migrating to British territories of their standing under British law as British subjects.³³ In view of present migration from Ireland to England

It was said the Irish who plague the United Kingdom is who plague the South.

³³ A. B. Keith, *The Governments of the British Empire*, (1935), pp. 121-122.

for purposes of employment, any action which would culminate in British treatment of Irish citizens in British territories as aliens would be embarrassing to the government of Ireland. Finally, this might not be an opportune time to cut adrift from the British Commonwealth of Nations, since recent years have been marked by the failure of the League of Nations to protect the rights of small states. ✕

For further clarification of Anglo-Irish relations, de Valera would like an abrogation of Article VII of the Treaty of 1921. This provides for occupation in time of peace by British forces of harbors and other facilities which are set forth in the annex to the treaty. It further provides that the Irish Free State shall afford to His Majesty's Imperial forces "in time of war or of strained relations with a Foreign Power such harbour and other facilities as the British Government may require for the purposes of such defence as aforesaid." De Valera prefers to see these clauses abrogated, since they might make it impossible for Ireland to maintain her neutrality if the United Kingdom were at war. This is not an issue which de Valera can settle by unilateral action, and he has taken none.

The new constitution was accepted by the plebiscite of July 1, 1937, and, according to Article LXII, it goes into operation late in December, 1937, or on such earlier day as may be fixed by Dáil Eireann. The establishment of an independent Ireland in external association with the British Commonwealth can be accepted in English opinion only upon the thesis that freedom of dissociation follows from freedom of association under the Statute of Westminster. In this connection, an interesting paradox appears. The Irish Free State in 1924 registered the Treaty of 1921 with the Secretary-General of the League of Nations. This action was logical in view of the Irish claim that the treaty was of binding force internationally. To the registration of the treaty the British government objected on the ground that the Covenant of the League of Nations did not govern the relations *inter se* of the British Commonwealth. In view of this British claim that the treaty had no binding force in international law, how then was the Irish Free State, after the Statute of Westminster, bound by the treaty? The treaty was given the force of law by an Imperial act, and, under the Statute of Westminster, an Imperial act in its application to the Irish Free State might be abrogated by an act of that Dominion. The British pro-

test of 1924 has eventually played into the hands of the Irish nationalists. On the other hand, the early Irish view that the treaty had binding force internationally might now logically be abandoned in the interest of Irish freedom of action under the Statute of Westminster.

Aside from the dispute over the binding force of the treaty in international law, two major issues might arise between Ireland and the United Kingdom. One would be the contention that the treaty as an agreement between the Imperial government and a *de facto* Irish government was still binding inter-Imperially between the United Kingdom and Ireland until abrogated by the assent of the two governments. Another would be the contention that freedom of dissociation does not follow from the Statute of Westminster; that any changes in the succession or the royal style and titles require constitutionally the consent of all of the Dominions and the United Kingdom; and that, as a result, the sovereignty of the king, internally as well as externally, is an essential attribute of the relationship between members of the British Commonwealth.

Practically, however, how are such views to be maintained by the United Kingdom short of a resort to force of arms to compel the acquiescence of Ireland? The Irish Free State abolished the oath of allegiance to the king, and it abolished the governor-general, the representative of the king, in its internal affairs. Éire will have a republican president and will be externally associated with the British Commonwealth by statute. For practical purposes, this means that the king, acting on the advice of the government of Ireland, will have a formal part in the appointment of diplomatic and consular representatives and in the conclusion of international agreements. To date, the British government has given no evidence of its attitude toward the self-determined state of Éire other than acceptance of a *fait accompli*. Resort to armed force, used by England as late as 1921 in Ireland, seems now to be out of the question, unless it should be necessary to protect the government of Northern Ireland.²⁴ X

²⁴ For arguments against the right of dissociation under the Statute of Westminster, see the views advanced by A. B. Keith, in reviewing Henry Harrison's *Ireland and the British Empire* (1937), in the *Manchester Guardian*, April 27, 1937. On the controversy between the United Kingdom and the Irish Free State over the registration of the treaty in 1924, see P. J. Noel Baker, *The Present Juridical Status of the British Dominions in International Law* (1929), pp. 305-307.

PUBLIC ADMINISTRATION

The Progress of Administrative Reorganization in the Seventy-Fifth Congress. Congress adjourned on August 21 without enacting any part of the program for administrative reorganization and management of the federal government recommended by the President's Committee on Administrative Management, and endorsed by the President in a message to Congress on January 12. The program was sidetracked until late in the session by the court reform proposal. While no action was taken, all of the major recommendations of the Committee have been incorporated in bills which have been reported out for passage in both houses, and two bills were passed by the House. The other bills are on the calendar for consideration at the next session, and will not have to go through the original committee stage again. Presumably these measures will receive early attention when Congress meets, and it seems probable that a large part of the program will become law.

The Senate bill designed to carry out the President's program, S. 2970, was introduced by Senator Byrnes, who succeeded Senator Robinson as chairman of the Senate Select Committee on Government Organization. The four House bills are as follows: H.R. 7730, introduced by Mr. Robinson of Utah, providing for six administrative assistants to the President (passed in the House); H.R. 8202, introduced by Mr. Warren of North Carolina, authorizing the President to reorganize the executive agencies and creating a new Department of Welfare (passed in the House); H.R. 8276, introduced by Mr. Vinson of Kentucky, relating to accounting and auditing; and H.R. 8277, introduced by Mr. Meade of New York, reorganizing the civil service administration and extending the classified civil service and the Classification Act.

The following is a summary of the single Senate and four House bills, which, in the main, cover the same ground and contain similar provisions. Exceptions and differences are indicated.

Administrative Reorganization. The President, after investigation, is authorized to reorganize the executive agencies by executive orders, under provisions almost identical with those of the Economy Act of 1932, as amended in 1933. The House bill introduced by Mr. Warren (H.R. 8202) merely reenacts the former law, with specified exceptions. All orders must be submitted to Congress while in session and are not effective until 60 days thereafter. The Senate bill provides, in addition, that if Congress adjourns before the expiration of 60 days, the order goes over until the next session, and does not become effective until 60 days after the opening of the session. In the House bill, the authority runs for two years, in the Senate bill for three years, from the date of enactment.

In both bills, certain agencies are exempted from the authority of the

President, although the 1932 act carried no exemptions. In both, the regulatory commissions are exempted. The House bill, however, excepts from the exemption the "function of the preparing of estimates of appropriations," and also amends the Budget and Accounting Act specifically to include the independent regulatory commissions within the agencies subject to the budgetary provisions. Under the House bill, the President presumably might place an independent regulatory commission within a department for supervision and review of its budget estimates prior to submission to the Bureau of the Budget.

In addition to the independent regulatory commissions, the House bill also exempts the Engineer Corps of the Army, the Coast Guard, the General Accounting Office, and the United States Tariff Commission. The Senate bill exempts also the Board of Tax Appeals, the District of Columbia, the Board of Governors of the Federal Reserve System, the newly created General Auditing Office, the Engineer Corps of the Army, and the Mississippi River Commission.

Both bills provide for a new Department of Welfare. The Senate bill changes the name of the Department of Interior to Conservation, and creates a National Resources Planning Board to take over the functions of the present National Resources Committee set up by executive order.

Civil Service. The Senate bill and the House bill on civil service (H.R. 8277) both abolish the existing Civil Service Commission and create instead a single Administrator to be appointed by the President, by and with the advice and consent of the Senate, with a salary of \$10,000 a year, and serving for an indefinite term. In addition to the duties now placed upon the Civil Service Commission, the Administrator is directed to "prepare and recommend to the President plans for the development and maintenance of a career service in the federal government," to plan, establish, and supervise training programs, and to carry on investigations of personnel matters. The House bill provides for a Civil Service Board of seven members, serving without salary but with an allowance of \$50 a day, not to exceed \$1,500 a year. This board is given investigatory and advisory duties, and is required to make annual reports to the President and to Congress upon the quality and status of the personnel administration of the federal government, to make recommendations for the improvement of personnel administration, to propose new rules, and to review and comment upon proposed rules and regulations submitted to it.

Both bills authorize the President to extend the classified civil service to any office or position within the government, including corporations owned and controlled by the government. This provision will enable the President to cover into the classified civil service positions in the new agencies which have been specifically exempted from civil service by acts of Congress. Positions which are filled by presidential appointment, by

and with the advice and consent of the Senate, are excepted in both bills from the President's authority to extend the classified civil service.

Incumbents in positions covered into the classified civil service attain civil service status only upon (1) certification by the head of the agency that they have served with merit for six months prior to the executive order, and (2) upon passing a non-competitive examination conducted by the Civil Service Administrator.

The Senate bill provides that if the President finds that any position of head of a bureau, division, service, or similar agency is policy-determining in character, the position shall be filled by presidential appointment, by and with the advice and consent of the Senate. This authority expires at the end of three years. It may be noted that the President now has the authority to take any such position out of the civil service.

Both bills authorize the President, after such investigations as he may order, to extend the Classification Act of 1923 to positions in the field. Branches of the service which have special classification systems, such as the Postal Service, the Coast Guard, the Public Health Service, and the Foreign Service, are excepted. The President is vested with discretion to set up new classification services or grades for positions which may not be fairly and reasonably allocated to existing grades, and to modify the salary rates in the case of unusual positions, such as those involving undue hardships or hazards.

The reports accompanying these bills are as follows: Senate Report No. 1236, *Government Organization*; House of Representatives Report No. 1177, *Authorizing the President to Appoint Administrative Assistants*; H. R. Report No. 1487, *Reorganization of the Executive Departments*; H. R. Report No. 1587, *Civil Service Administration*; and H. R. No. 1606, *Amendment of the Budget and Accounting Act*. These reports are obtainable from the chairmen of the respective committees.

Accounting and Auditing. The Vinson bill in the House (H.R. 8276) and the Senate bill provide for the separation of the auditing and the "controlling" functions which are now united under the Comptroller-General, and for return of the "controlling" functions to an officer responsible to the President. Both bills create a new General Auditing Office, whose functions and authority would be limited to making a post-audit and reporting thereon to Congress. This office would be headed by an Auditor-General, appointed by the President for a fifteen-year term, and removable only by Congress. The Auditor-General would thus enjoy the same position of independence and permanence as that now granted to the Comptroller-General, and would be directly responsible to Congress.

Under the Senate bill, the "controlling" functions of the settlement of accounts and claims, the rendering of advanced decisions, and the conduct

of pre-audits are transferred to the Bureau of the Budget, while the prescribing of accounting systems and records is transferred to the Treasury. The General Accounting Office is abolished. The Vinson bill, on the other hand, retains these functions in the General Accounting Office, but places the head of the office, the Comptroller-General, under the President by striking out the statutory provisions which give him a fifteen-year term and provide for removal only upon joint resolution of Congress.

Both bills provide that the audit shall be decentralized and conducted as promptly as possible after payments, and prior to settlement. The executive officer in charge of settlements would not be bound by the findings of the Auditor-General, but if an account is not settled in accordance with the findings of the Auditor-General, he is required by the bills to report his exceptions to Congress. This corresponds to the British practice under which the Treasury may overrule the Auditor and Comptroller-General, though in practice rarely does so. Both bills provide that the decisions of the comptrolling officer shall be subject to appeal to the Attorney-General upon questions of jurisdiction.

The Byrnes bill creates a Joint Committee on Public Accounts in Congress to receive the reports of the Auditor-General and to make such investigations and recommendations as it deems necessary. This committee would consist of twelve members each from the House and the Senate, divided equally between the two major political parties. The House bill does not create a special committee to receive the reports of the Auditor-General, but merely provides that they shall be referred to the appropriate committees, which are authorized to subpoena witnesses and to conduct investigations.

Planning Agency. The Senate bill creates a permanent planning agency directly under the President—the National Resources Planning Board. This board is to consist of five members appointed by the President by and with the advice and consent of the Senate. Members are to be compensated at \$50 a day, but not to exceed 30 days in any two consecutive months. The board would take over the functions of the existing National Resources Committee. No provision for such an agency is made by the House bill.

Administrative Assistants to the President. The Senate bill and the bill introduced by Representative Robinson in the House (H.R. 7730) authorize the President to appoint not to exceed six administrative assistants at a salary not to exceed \$10,000 a year.

It will be noted that these measures follow in the main the recommendations of the President's Committee on Administrative Management. They depart therefrom in the following particulars: (1) no provision is

made in the Senate bill for a Civil Service Board; (2) the Civil Service Administrator is not to be selected as a result of a competitive test; (3) the civil service is not extended upward to the higher positions; (4) salaries in the higher brackets are not increased; (5) the independent regulatory commissions and a few other independent agencies are removed from the authority of the President to reorganize by executive order; (6) the controlling powers are placed in the Bureau of the Budget by the Senate bill, instead of directly in the Treasury as recommended, while under the House bill they are left with the Comptroller-General, who is made responsible to the President; (7) no provision is made for the proposed Department of Public Works; (8) the House bill does not provide for a National Resources Planning Board.

It may be of interest to review briefly the consideration of the program by Congress. The House and Senate Select Committees on Government Organization, to whom the report of the President's Committee was referred, held hearings in executive sessions during February, March, and April. These hearings have since been published (*Hearings Before the Joint Committee on Government Organization*, 75th Congress, 1st session). The members of the President's Committee on Administrative Management—Louis Brownlow, chairman, Charles E. Merriam, and Luther Gulick—testified in support of the President's program. Mr. A. E. Buck, a consultant of the President's Committee, also testified on the financial aspects of the program. Mr. Lewis Meriam and Mr. Daniel Selko, of the Brookings Institution, testified on those financial aspects of the program on which the recommendations of the Brookings Institution differed from those of the President's Committee.

The late Senator Robinson introduced a single bill (S. 2700) on June 23 to carry into effect the President's reorganization program. Hearings were held on this bill by the Senate committee under the chairmanship of Senator James F. Byrnes, who succeeded Senator Robinson, during the first weeks of August. Messrs. Charles E. Merriam and Luther Gulick appeared in support of the principal provisions of the Robinson bill. The supporters of the measure made no effort to call other witnesses, although several who had asked to be heard testified in general support of the bill.

Principal opposition to the bill was voiced by representatives of forestry associations, the independent regulatory commissions, and the General Accounting Office. The forestry witnesses opposed the change of name of Interior to Conservation, fearing that this might lead to a transfer of the Forestry Service out of the Department of Agriculture. They advocated also specific exemption of the Forestry Service from the authority of the President to make transfers. The witnesses from the independent regulatory commissions, notably Mr. Joseph B. Eastman of

the Interstate Commerce Commission, opposed the grant of authority to the President to transfer or to reorganize these commissions.

The Acting Comptroller-General and several of his division chiefs appeared in opposition to the features of the bill affecting that office and explained the detailed workings of the present system. Chairman Mitchell of the Civil Service Commission appeared in opposition to the abolition of the Civil Service Commission and the creation of a single Civil Service Administrator. Many witnesses vigorously opposed the provision in the Robinson bill which might have led to taking out of the civil service several hundred bureau chiefs and other higher administrative officers.

After the conclusion of the hearings, Senator Byrnes introduced a new bill which had previously been agreed upon by the Senate committee (summarized above), and reported it out for passage in the closing days of the session. While it was not called up for consideration, it is assumed that it will be acted upon early in the next session.

The House select committee headed by Representative John J. Cochran of Missouri appointed four subcommittees in May to consider the major features of the program, namely, (1) administrative assistants to the President, (2) reorganization and new departments, (3) civil service, and (4) accounting and auditing. These subcommittees prepared the four House bills summarized above, all of which were reported out for passage, and two of which were passed by the House.

The first measure reported out was the bill authorizing six administrative assistants to the President. The bill was opposed by the Republican leaders, resulting in a debate and vote along partisan lines in the House. The Republicans ridiculed the measure as insignificant. The Democratic leaders pointed out that this was the first of a series of four bills to carry out a comprehensive program. The measure carried by a vote of 260 to 88.

The second bill reported out in the House was the Warren bill (H.R. 8202), which reenacted the reorganization provisions of the Economy Act of 1932, as amended in 1933, and created a new Department of Welfare. The debate was also largely along partisan lines. The principal opposition of the Republican leaders was against the creation of a welfare department. The bill was passed by an overwhelming vote. Mr. Taber, the senior Republican member of the Select Committee on Government Organization, admitted the necessity of delegating to the President the authority to reorganize the administrative agencies.

While it is not the purpose of this note to discuss the merits of the program submitted to Congress, or of the bills which have been reported out for passage, brief mention may be made of some of the features which have proved most controversial. The recommendations of the President's Committee that the President be authorized to reorganize the administra-

tive agencies by executive order has been generally accepted as the only practicable manner in which administrative reorganization can be accomplished. Few persons in Congress or out believe that it is possible for Congress itself to enact the necessary detailed legislation in the face of the vigorous opposition of government agencies and their friends opposed to any change. The bills introduced, however, are not as broad as recommended in that (1) they are for a limited duration, (2) executive orders must lie before Congress for 60 days prior to becoming effective, and (3) numerous independent agencies are given an exempted status.

The recommendation of a new Department of Public Works has received little support in Congress, although there has been little open opposition. The creation of a Department of Welfare has been vigorously opposed on the ground that it will make permanent the relief activity of the government.

There has been only praise publicly for the recommended extension of the civil service, but this proposal has not been warmly received in Congress. In the end, it is likely to be curtailed more severely than any other part of the program. The recommendation that the civil service be extended upwards has already been dropped, and that of a higher salary scale for top administrative officers has not received any consideration. The recommendation for the creation of a single civil service administrator in the place of the existing commission has called out some criticism, but, in general, friends of civil service are in favor of the change.

The proposal which has stirred greatest opposition, perhaps, is that the "executive" or "controlling" functions of the Comptroller-General be vested in an officer responsible to the President. Back of this opposition is the feeling that there should be some independent check upon the Administration in the expenditure of public funds, and that it is the function of Congress to set up an independent officer to interpret and enforce its appropriation acts. There has been considerable confusion between auditing and controlling, it being charged that the President's Committee recommended doing away with an independent audit. The President's Committee recommended that there should be an independent audit carried on by an officer directly responsible to Congress, but that this officer should not exercise current control over the fiscal affairs of the government, as at present. The Committee regarded current control as an executive function of management, which must be located within the executive branch to be exercised effectively and with consideration of administrative problems. The Committee also pointed out that under the Constitution the executive power is definitely vested in the President, who is charged with the duty of seeing to it that the laws are enforced. The recommendations of the President's Committee in this regard were designed (1) to bring about more effective internal financial control and

management, (2) to avoid the difficulties and delays which have resulted under the existing system, and (3) to establish more effective responsibility of the executive branch to Congress through a truly independent audit. This issue will be threshed out at length in the next session of Congress when the Byrnes and Vinson bills are under consideration.

Another proposal which has been opposed strenuously is that something should be done about the growing number of independent regulatory commissions which are largely removed from executive direction and supervision. Most of these commissions regard themselves as agents of Congress outside of the executive branch. The President's Committee "viewed with alarm" the creation of numerous independent commissions exercising wide regulatory powers over our economic life, and feared that the time is not distant when we may have fifty or a hundred such agencies, effectively destroying the executive authority. In its recommendations, however, the Committee was not so specific. It advocated that these commissions be brought within the executive departments where appropriate departments exist, but did not specify to what extent the commissions should be made subject to the head of the department. It was suggested that "one possible solution" was to place the commissions within departments, and to separate their administrative and executive duties from their quasi-judicial functions. Under this plan, the commissions would be entrusted with the quasi-judicial functions independent of executive control, and the executive and administrative functions would be placed under the supervision of the department.

This recommendation has been opposed vigorously by the independent regulatory commissions themselves and by their friends on the following grounds: (1) these commissions are agents of Congress, and are not a part of the executive branch; they have been set up to fill in the details of legislation and to carry out the policies adopted by Congress; (2) to place them within an executive department would subject them to political pressures and control by constantly changing, politically selected, cabinet officers, while at present they are removed from partisan influence; (3) the work of these commissions is of such a nature that they should not be made subject to any supervision or direction from the President; and (4) to place them within the executive branch would greatly hamper and impede their work.

This issue, for the present, is largely settled by the Senate and House bills, which exempt the commissions from the reorganization authority of the President. The inherent problem, however, is not settled. If the present trend of constantly increasing the independent regulatory commissions continues, as appears likely, the problem will become more and more pressing as time goes on.

No mention has been made of the special studies by the staff of the

President's Committee on various aspects of administrative management in the federal government, such as personnel administration, financial administration, the exercise of the rule-making power, governmental corporations, departmental management, and others. These are to be reviewed in a later issue of the REVIEW. Nor has mention been made of the reports prepared by the Brookings Institution for the Byrd Committee of the Senate (see August REVIEW, pp. 700-702). The Brookings Institution studies describe and analyze the activities of the government under such headings as financial institutions, agriculture, public welfare, transportation, regulation of business, etc. They indicate in detail existing overlapping and duplication of activities and suggest specific transfers and consolidations. Several measures have been introduced by Senator Byrd to carry out these recommendations, but have not been reported out of committee.

JOSEPH P. HARRIS.

*President's Committee on Administrative Management,
Washington, D. C.*

Public Service Training in Universities. Political scientists in this country have for many years been concerned with the problem of preparing young persons for public service careers. Considerable thought and discussion were devoted to the subject at numerous conferences and conventions in years before the entry of the United States into the World War, and some progress was made toward adapting university curricula to such principles as were evolved. The revival of a fresh interest in the matter evidently dates from around 1930, one of the major signs having been the Conference on University Training for the National Service held at the University of Minnesota in 1931. Since that time, the problem has received constantly increasing attention at meetings of the American Political Science Association, the Civil Service Assembly, the National Municipal League, the National League of Women Voters, and special groups such as that sponsored at Princeton, New Jersey, in 1935 by the Public Administration Clearing House.

Even more significant has been the recent creation and expansion in many institutions of special schools, programs, and courses designed to meet the obligations of higher education in providing better trained personnel for our government services. A survey conducted in 1936 indicates that out of 126 universities and colleges which responded to questionnaires 115 are engaged in public service training activities, 58 considering their programs general only, 50 considering theirs both general and specific, and 4 considering theirs specific only.¹

¹ Clarence E. Ridley and Lyman S. Moore, "Training for the Public Service," *Annals of the American Academy of Political and Social Science* (January, 1937), Vol. 189, p. 129.

In the midst of this growing emphasis upon training for the public service, it is strange to find that so few systematic analyses have been made of the precise personnel needs in government employment today as a basis for deciding what the most effective rôle of university training can and should be. The subject was broached at the Minnesota conference in 1931, but such studies have been very rare.

Considerable discussion takes place with respect to the desirability of creating a special Administrative Service in the federal classification scheme, patterned after the British system.² But little is to be found in the way of scientific investigation of the present administrative positions in the service, the actual duties and requirements involved, and the feasibility of dealing with them apart from the functional or "subject-matter" phases of the operations which are administered. It is pertinent to mention that, in a study of the New York City civil service,³ the writer has noted that exceedingly few openings appear in administrative positions which do not involve the application or knowledge of some professional technique. An analysis of entrance opportunities in the municipal service from 1925 to 1935 indicated that, out of an annual average of 687 appointments (almost entirely in the Competitive Class) of interest to college-bred applicants, only 13 appointments during the entire ten years could be construed as unrelated to any special profession. The only two position titles involved were "civil service examiner" and "examiner (board of education)", both of which required considerable specialized experience (ten years in the latter case) to qualify for entrance. Probably on account of this being a municipal service, the great majority of competitive appointments were in the engineering and architectural fields. Many such technical positions, however, involved or led to other positions that involved administrative responsibility.

Higher general administrative posts, of course, were found in the groups exempt from the formal competitive merit system, but appointments to these numbered very few per year, and in no case, even when filled on an informal merit basis under Mayor F. H. LaGuardia, could these advanced jobs be looked upon as offering immediate opportunities to persons with undergraduate or graduate training in general public administration but without experience in or out of the public service. The only possibilities for young graduates so trained to enter the largest of our municipal services appear to be in that group of positions (some 6,620 in 1935) with the ambiguous title of "clerk," to which an average of 252

² See Leonard D. White, *Government Career Service* (University of Chicago Press, 1935), in which a federal administrative corps is proposed; for a different point of view, note Lewis Meriam, *Public Service and Special Training* (University of Chicago Press, 1936).

³ *Training Career Public Servants for the City of New York* (New York University, 1936), Chap. 5.

annual appointments were made during the ten years studied. No doubt some of these appointments were to positions of a junior administrative or sub-administrative character or gave promise, through later promotion, of advancement to positions of such nature. Chronic unemployment may tend to make even the better paid clerical positions and other non-professional positions attractive to college graduates, but many of the above clerical appointments were to positions paying salaries of less than \$1,200 annually. The general conclusion is unavoidable that persons with training in public administration have little opportunity, as compared with those trained as engineers, doctors, scientists, or technicians, for finding administrative careers in the New York City service.

Meanwhile, many universities are turning out increasing numbers of persons well schooled in public administration, usually without relation, however, to any special technical field, such as engineering, natural science, forestry, medicine, law, or economics. Few professional or technical schools have gone very far in relating their special fields of knowledge to social or governmental problems. Although general public service training is not necessarily being wasted or misdirected, it is being given without adequate knowledge of what the public service needs and can use.

What organized knowledge do we have of the annual opportunities for entrance into the federal service and into our large state and municipal services according to the occupational nature of the work? How much do we know of the ultimate chances for promotion of entrants into the service? What are the possibilities for extension or definition of these opportunities by improvement and extension of merit systems and revision of classification plans? Recognition of the usefulness of research in finding the facts before solution to a problem is ventured adds weight to the general observation that programs of university training for the public service should be entered into very cautiously before adequate systematic knowledge is acquired of past and probable future public personnel demands.

Research directed toward finding the answers to questions such as those above has been comparatively meager. It is true that the facts are not always clear from published records. Yet, every United States Civil Service Commission report should be a fruitful source as a start in determining the trend of civil service appointments to sundry vocations, to say nothing of the fact that necessary records are usually accessible and usable in most of the important municipal and state civil service offices. It is largely a problem of assembling the facts, assimilating them, and making considered interpretations of their significance. Undoubtedly there have been special inquiries into the opportunities in specific branches of the public service or in certain localities, but comprehensive studies are unknown.

Meanwhile, what is the proper rôle of university training to be? Must colleges await exhaustive study of the situation before providing certain forms of public service training?

First of all, it is clear that at the undergraduate level the institutions of higher learning should emphasize courses in American government and public administration as necessary adjuncts to training in almost every field, even in liberal arts curricula where occupational specialization is not an objective. However, it is in the technical schools and curricula, where such vocational specialization is usually the main goal, that political science courses of this sort are especially needed as an indispensable complement to the concentration, often quite narrow, in the subject-matter of some technical field. It must be made obvious to students whose minds do not turn to the social sciences that, even if they have no intention of practicing their specialty in any branch of government service, fate may land them there, because government is a growing employer of all specialties. More important, such training is highly essential for intelligent citizenship. It is the groundwork and the most effective beginning point for genuine adult political education. Sound elementary courses in American government alone play an unmeasured but unquestionably important part in producing more sophisticated and less gullible citizens. Should colleges in a democracy consider their graduates "educated" if they do not come out wiser citizens and voters? Justification for elementary training in government and public administration must rest increasingly upon the objective of good citizenship as well as that of preparation for the public service.

For these reasons, few can disagree with the establishment or extension of minimum requirements for political science training for undergraduates in our universities regardless of vocational aspirations. The conviction that a general college education should be viewed as something much broader than mere preparation for an occupation is all the more reason for emphasis on public problems and citizenship in college curricula. The public is the gainer when both the technical man in government employ and the citizen on the outside have a broader understanding of the operations and problems of the public service.

A second observation is that special training in public administration above the undergraduate level must be understood to have important limitations as vocational training. Until we know more about the opportunities for absorption in the public service of persons with master's or doctor's degrees in public administration, it would seem to be the proper step for universities to make clear that their graduate courses in public administration (including internships) do not alone or as yet open a direct road to a career in government service. It is understood, for example, that the faculty of the School of Citizenship and Public Affairs at Syracuse University encourages students taking its two-year graduate

course, which leads to the degree of master of science in public administration, to specialize as much as possible in some one field in order to qualify for entrance into a satisfactory place in the public service. The commission appointed by President Conant of Harvard University to prepare recommendations for the organization of the new Graduate School of Public Administration at that institution has wisely urged that graduate pre-entry training for public service for non-professional students be started no sooner than September, 1938, and that the number of students be very small and the candidates carefully selected. "Nothing," said the commission, "could be more unfortunate than that the school should turn out graduates for whom positions in the public service are not available."⁴

Certain New Deal agencies have manifestly drawn liberally in recent years upon college graduates with political science or other social science training, but there is every reason to believe that such opportunities not only have passed their peak but will progressively decline from the high point of filling new and growing organizations to a considerably lower and more stable point as these organizations settle down to their permanent place in the government scene. Even with high hopes of adoption of career service principles as evolved by the Commission of Inquiry on Public Service Personnel, it is doubtful whether advanced training in public administration, apart from technical occupational training, will ever result in placing many men in public service fields other than in the special "staff" agencies or functions, particularly personnel, budgeting, office management, and coordination, which are significant mainly in the large organizations and which together compose an exceedingly important but relatively small portion of government service.

Nevertheless, the universities deserve to have meaningful statistics at hand regarding the number and types of positions or channels of activity in which public administration graduates may have a reasonable hope of being placed and of finding an opportunity for a stimulating and satisfying career. Such facts may reveal that the supposition that opportunities would be limited largely to the "staff" functions is too conservative. So far as any present studies have shown, however, the chief opportunities for college people in government service still seem to be for those technically trained. In any event, until a larger portion of the ground is covered and more fully representative facts are known, graduate training in public administration should be confined to those larger collegiate institutions which have adequate staffs, which are located close to important local, state, or national administrative centers, and which are in a position to integrate public service training effectively with the rest of the univer-

⁴ "A Graduate School of Public Administration at Harvard University: Committee Recommendations," in this REVIEW, Vol. 31, p. 318 (Apr., 1937).

sity program and with the needs of some part of the public service close at hand.

Among important universities which have already in the past two or three years established or expanded their programs of graduate pre-entry training in public administration are: American, California, Chicago, Cincinnati, Columbia (Institute of Public Administration), Wayne (Detroit Bureau of Governmental Research), Harvard, Kentucky, Michigan (Institute of Public and Social Administration), Minnesota, New York (Division of Research in Public Administration), North Carolina, Ohio State, Oregon, Princeton (School of Public and International Affairs), Southern California, Stanford, Syracuse (School of Citizenship and Public Affairs), Texas, Virginia, Washington, and Wisconsin. Another example is the National Institute of Public Affairs, which coöperates with collegiate institutions in Washington, D. C., to provide graduate public administration courses as part of the internship program of training for its annual group of about 30 college graduates. These programs are in addition to the schools and courses, which are usually longer established, in these institutions and others concerning some special public field such as foreign service, library administration, forestry, public health, social work, police administration, and city planning. Although the above may not be an exhaustive list, it is sufficient to show that the field of graduate training in public administration is probably approaching the saturation point.

What has been said thus far relates entirely to pre-entry training for the public service. A third point as to the appropriate rôle of university training in the expanding problem of public administration relates to post-entry or in-service training. Without waiting to secure the further knowledge needed for the proper delineation of pre-entry training programs, many universities are now making, and can continue to make, their most effective contribution in this field of training (both graduate and undergraduate) for present employees in government service. Obviously, such activity is almost entirely limited to schools which are located in large cities, state capitals, or the national capital. Leaders in public administrative agencies are laying more and more stress upon the values of in-service training, many phases of which can best be provided by the nearest academic institutions.

Among those universities carrying on significant programs of training especially for public employees are: American University, with its School of Public Affairs, and George Washington University, which together reach several thousand federal employees annually in Washington; the College of the City of New York, with its evening courses at the School of Business and Civic Administration, all of which are open to and many of which are offered especially for municipal employees; Northwestern

University, with its annual short course for Evanston traffic officers; the University of Minnesota, which offers fellowships to public officials who can secure leave for a full year of study at the University; and the University of Southern California, with its Civic Center at the Los Angeles City Hall and its annual conference of public servants and academic men in the Los Angeles area for the Public Administration Short Course. It is also significant that the recommendations for the Littauer School at Harvard call for fellowships for public officials on leave who would spend at least a year at the University.⁶ An interesting development is the coöperation of the University of Tennessee and the Tennessee Valley Authority in supporting a supervisor of training in public administration who teaches classes and plans programs which are available to both university students and TVA employees. No doubt other institutions are engaged in training public employees, but, on the whole, comparatively few have laid emphasis upon this phase of public service training.

Although in some ways in-service training is definitely a governmental responsibility,⁶ there are cogent reasons in support of university participation in fulfilling in-service training needs. Certainly public-supported institutions should share this responsibility. Furthermore, so far as much formal course work is concerned, it is usually more sensible and economical for a public agency to draw upon the teaching staff and facilities of a near-by collegiate institution, even if the agency pays the necessary fees for its employees who take such courses. As commendable as their programs are, it cannot be assumed that quasi-public organizations, such as state leagues of municipalities, the Municipal Training Institute of New York State, or the International City Managers' Association, can or should cover all the in-service training activities not carried on directly by public agencies themselves.

In-service training seems to serve many desirable purposes at once. It helps to prepare employees for the assumption of new and greater responsibilities, thereby increasing the supply of promotable personnel within the service. It assists in the improvement of employee efficiency, morale, and interest in the organization and work. It offers opportunities for broadening the perspective of men with training and background confined to technical fields who find themselves assigned to posts that involve

⁶ *Idem.*, p. 317.

⁶ An example in which the far-flung character of a public agency's work makes in-service training more clearly the primary responsibility of the agency itself, rather than of general educational institutions, is the United States customs service. It is significant that an anonymous customs employee, working on the Canadian border, has publicly protested against the lack of training in his establishment, which practically closes all opportunity for advancement to himself and his colleagues. "Your Civil—and Uncivil—Servants," *Harper's Magazine*, Vol. 174, p. 505 (Apr., 1937).

many perplexing administrative duties. In all such aspects of in-service training, the university can play an important part by making easily available to public employees certain regular courses and such special courses as are designed in conjunction with public personnel officers. The university can even participate in certain phases of recruit training, although much of the necessary training of new recruits in functions peculiar to the public service or to individual departments (such as police and fire-fighting courses for initiates) can best be left to the public agencies themselves. Universities conveniently situated can perform their most important public service training function at present by concentrating on those persons already in the service, because the effects of such a program may be immediately felt in government offices and because these institutions can fit their services to specific local needs and opportunities and can observe the results at first hand.

On the basis of these general observations, the conclusion seems clear that the university should be in possession of broad and systematic analyses of the personnel demands of government at all levels before going any deeper into the field of pre-entry training for public administration as such. As a necessary concomitant of undergraduate training (general or specialized), its courses in political science and public administration should be given with a more definite view to preparation for responsible citizenship, caution being exercised as to their practicability for specific government employment. With employment opportunities limited, or at least not thoroughly understood, public administration training at the graduate level can most profitably be left to a comparatively few major institutions already suited to the promotion of such training. It is in the field of in-service training that the universities now have their largest and best opportunity to coöperate in making public employees "public service conscious" and in assuring the country better trained government personnel.

Meanwhile, there is a challenging opportunity for research to ascertain what types of trained personnel and what numbers the public service can currently use and how the perennial supply of college-trained individuals can be most effectively articulated with these known personnel needs. Promise of some study in this direction has resulted from the recent gathering of representatives of 30 Eastern colleges and universities at the annual luncheon of the National Civil Service Reform League in New York in April, 1937, at which plans were formulated for a network of student chapters of the League to investigate and deal with problems of the civil service and of proper training for government work. In announcing the plan, Mr. Robert L. Johnson, president of the League, said: "Opportunities and types of positions in the service, particularly in the fields of social security, public works engineering, conservation of natural

resources, and similar lines emphasized in recent years will be investigated."⁷ It may be hoped that this movement will provide the necessary stimulus for broad and thoroughgoing research into the personnel needs of the public service.

O. GLENN STAHL.

*Tennessee Valley Authority,
Knoxville, Tenn.*

Germany's New Civil Service Act. Prior to the National Revolution of 1933, one of the foremost postulates guiding the conduct of German civil servants was that of political neutrality. The permanent public personnel—national, state, and local—was to consider itself, in the apt formulation of the Weimar constitution, "servants of the whole people, not of a party." Although imprudent legislative and executive measures taken during the republican era weakened rather than strengthened the principle of neutrality, it was effectively upheld by the disciplinary courts. Indirectly, the professional tenet of non-partisanship facilitated German bureaucracy's identification with a broadly conceived constitutionalism. At a time when the National Socialist vote had become the largest in national elections, organizers for the new creed still made least headway among the government personnel. Statistics published in 1936 disclose the fact that less than four per cent of all civil servants joined the national Socialist party before Hitler's rise to the chancellorship. As the incoming Reich cabinet was not slow to recognize the "impossibility"¹ of large-scale displacements, it resorted to transitional regulations in order to weed out overtly heterogeneous elements.² These regulations broke once and for all with the tradition of civil service neutrality. The demand of the hour was "political reliability." Another novel feature was the introduction of National Socialism's racial dogma into the German civil service law. Even so, it is safe to say that more than 90 per cent of the total public personnel was left in office, although the turnover has been far above the general average for the higher posts.

A complete recodification of the civil service law in accordance with National Socialist concepts, first announced as early as 1933, remained in the offing no less than four years. In the meantime, the former guarantees of tenure were left suspended. Under the Restoration Act of 1933, civil servants could be retired administratively without any specific

⁷ *Christian Science Monitor*, May 1, 1937.

¹ Thus, Dr. Hans Frank (Reich Minister without portfolio), *Mitteilungsblatt des Bundes Nationalsozialistischer Deutscher Juristen und des Reichsrechtsamts der NSDAP*, No. 2, p. 37 (1935).

² Cf. Fritz Morstein Marx, "German Bureaucracy in Transition," in this REVIEW, Vol. 28, pp. 467 ff. (June, 1934).

charges should the interest of the service or the simplification of public administration necessitate it. It is noteworthy, however, that in the past two years this provision has been utilized with decreasing frequency against politically suspect officials. It throws some light on the change of motives within the executive hierarchy that recently personnel officers, although by virtue of a ministerial decree now all good National Socialists, were expressly instructed not to apply the law to "old party members"³—for whom it was manifestly not written. But, apart from the virtual abolition of permanency, the government availed itself of another equally powerful means of control by redefining what is "unbecoming conduct" for a German civil servant. The term today covers aberrations as serious as these: buying at a Jewish store; expressing concern over the closing of denominational schools; pointing to any parallels between National Socialism and Communism; failing to protest against "insults" to National Socialism uttered in the course of church services. A public officer discharged on such grounds may, moreover, expect to find himself an object of attention from the secret state police. Clearly, a behavior suggesting political compliance has its tangible advantages. But it should be no less obvious that colleagues who were once intimates have come to watch each other as keenly as they guard themselves.

In a way, the new civil service statute (*Deutsches Beamtengesetz*) promulgated as a "cabinet act" early in 1937⁴ represents a sincere endeavor to combat the atmosphere of distrust within the ranks of German bureaucracy. Official comment intimated that the past should now be forgotten. As to the present, however, those not yet prepared to support the new régime "from inner conviction" were again urged to "say so openly and bear the consequences."⁵ Sound as the advice may be, it is hardly conceivable that it will be followed—after the pretense of "inner conviction" has been practiced for four years. But certainly the new law must have made eminently plain to every civil servant what place he was to fill in the Third Reich. "A professional public service," reads the preamble of the act, "rooted in the German people, permeated by the National Socialist faith, and linked by the bond of loyalty to the Leader of the German Reich and people, Adolf Hitler, constitutes a main pillar of the National Socialist state." Irrespective of the abrupt change of metaphor—a peculiar finesse of the German *usus modernus*—the phrase leaves no doubt about the sustained vigor of totalitarian tendencies. Public administration is not to become a peaceful haven for politically aloof technicians, but will remain one of the major battlefields of ideology.

³ Decree of the National Minister of the Interior of May 11, 1936.

⁴ *Deutsches Beamtengesetz* of January 26, 1937 (*Reichsgesetzblatt*, I, p. 39).

⁵ Thus, *Reichsstatthalter* Karl Kaufmann, *Hamburger Fremdenblatt*, No. 291, October 19, 1936 (evening edition).

"The civil servant must at all times and without reservations take his stand for the National Socialist state and be governed in his entire behavior by the fact that the National Socialist German Workers' party, in insoluble union with the people, is the exponent of the German concept of the State" (sec. 3). That he shall set an example of true National Socialist conduct, the act does not stipulate; more realistically, it demands that he be "a model of faithful fulfillment of duties for all citizens."

Not only from the angle of ideology is the *Deutsches Beamten-gesetz* a consolidation measure. For the first time in the history of German bureaucracy, the civil service law has been incorporated in one single piece of legislation, supplemented by the *Reichsdienststrafordnung*⁶ (regulating disciplinary procedure) and two extensive ordinances elaborating the general provisions in greater detail. As a national measure including in its scope every civil servant, whether employed by the Reich, the former states, or local authorities, the act testifies to the ascendancy of the unitary state. With few exceptions, its provisions are also applicable to the members of the judiciary (sec. 171). For Germany's police forces, however, the subsequent Police Officers Act of 1937 contains additional stipulations. Henceforth all civil servants are *Reichsbeamte* (national officials). Those in the actual employ of the national government are direct *Reichsbeamte*; all others, particularly the permanent personnel of the municipalities⁷ and special authorities, have acquired the status of indirect *Reichsbeamte*. The law places "the German civil servant" at the disposal of "Leader and Reich"; he is proclaimed to be the "executor of the will of the state supported by the National Socialist German Workers' party. The state demands of the civil servant unconditional obedience and fullest discharge of his duties; in exchange, it guarantees him his life position" (sec. 1). He must "always be conscious of the increased duties imposed by his position," remain faithful "throughout his whole life to the Leader, who promises him his special protection,"⁸ and never tolerate a "dishonorable activity" on the part of family members living in his home (sec. 3). These "general duties"—the act knows no longer of rights of

⁶ The *Reichsdienststrafordnung* and the two *Durchführungsverordnungen* have become effective July 1, 1937, together with the *Deutsches Beamten-gesetz*. (*Reichs-gesetzblatt*, I, pp. 71, 669, 690. Application of the law to the permanent personnel of local authorities has been regulated in two subsequent ordinances (*ibid.*, pp. 729, 730). Cf. also the Police Officers Act of June 24, 1937 (*ibid.*, p. 653), the ordinance on outside activities of civil servants (*ibid.*, p. 753), and the special rules on appointment and dismissal procedure (*ibid.*, pp. 769, 771).

⁷ This term, in the phraseology of recent German legislation, extends to all basic units of local government, urban and rural. On the Local Government Act of 1935, cf. Roger H. Wells, "Municipal Government in National Socialist Germany," in this REVIEW, Vol. 29, pp. 652 ff. (1935).

⁸ In the language of the act, "*Treue bis zum Tode*"—an expression borrowed from the vocabulary of the soldier.

civil servants—find their counterpart in subsequent sections (4-20) elaborating the "special duties" incumbent upon the public personnel.

First, when entering the ranks of the service,⁹ appointees must solemnly affirm their allegiance to the "Leader of the German Reich and people, Adolf Hitler." To him, according to the formula of the oath, the official vows to be "faithful and obedient, to observe the laws, and to fulfill conscientiously his official duties." Second, no civil servant may, without the approval of his superior, concern himself with measures from which he or his close relatives might derive an advantage. Aside from this case, however, civil servants can be prohibited by special decree from exercising any function at all for up to three months—the famous "compulsory leave" so well remembered from 1933. Third, every civil servant "is responsible for the legality of his official acts." As long as he follows the directions of his superior in good faith, responsibility is assumed solely by the latter. But should the directions conflict "perceivably" with the criminal law, their execution would also be a disciplinary offense for everyone engaged in it. Only orders from the legal superior are binding; the law and such orders have precedence over "any other claim to obedience."¹⁰ This last provision is a revealing comment on the vicissitudes of the one-party state. Yet it is doubtful whether it will help to eliminate the twilight zones of authority engendered by the dualism of party and government machinery. Fourth, even after having resigned or being retired from the service, a public officer must observe strict secrecy of all official matters explicitly declared confidential or "according to their nature" not intended for outside reference. He cannot consider himself relieved from this obligation on account of any conflicting interest, whoever may be concerned. As under the old law, court testimony relative to facts to be kept secret requires the consent of the superior. On the other hand, the writing of memoirs will become more difficult, since upon request not only all official documents, but also notes on inside occurrences or abstracts of reports, are to be returned.

The rules of official secrecy are, of course, not meant to interfere with the indispensable activities of that select group of civil servants who are at the same time minor officials of the National Socialist party. Whenever one of these has to pass judgment on the political attitude of a depart-

⁹ The formulation suggests that the psychological effect of the oath would decrease in proportion to the frequency of its repetition. The act makes clear that no such repetition will occur in the course of the civil servant's career, regardless of promotion into higher offices or a transfer even from one local authority to another or from a municipal position to one in a central department or vice versa.

¹⁰ According to the first *Durchführungsverordnung*, however, if a civil servant invokes a regulation adopted by party authorities against an order coming from his superior, the latter must examine with particular care the possibilities of overcoming the discrepancy.

mental colleague at the request of a party agency, he can be confident that the path is free for perfect candor.¹¹ In fact, as a general rule, no superior is entitled to raise the question of "unbecoming conduct" in connection with party work of his subordinates.¹² Here, too, the party is a separate and impermeable organism. Accordingly, while every civil servant must give his full time to his official functions, and is consequently dependent on special consent even to accept the position of executor for the estate of a deceased friend, such consent is not required for (non-salaried) office-holding in the National Socialist party, its integral formations, or its affiliated organizations.¹³ Volunteers of the latter category may count on a reasonable adjustment of their office hours. On the other hand, the act prescribes expressly that civil servants are obliged to work overtime "should conditions necessitate it." In this instance, they can also be instructed not to leave the place of their residence while off duty. In the choice of their living quarters, they are to consider the requirement of ready availability. In the interest of the service, their superior may demand that they locate themselves within a certain radius from the office. As to the accountability of civil servants, there is the time-honored graduated system of disciplinary penalties such as reprimands, fines, and for grave offenses dishonorable removal from office.¹⁴ In addition, whenever actual damages have resulted, the guilty civil servant is liable to the unit of government employing him, while a citizen having suffered damage can recover from the government itself. Finally, the act provides for a neat device against practitioners of the "slowdown" as well as sluggards. Civil servants falling back in their work below reasonable standards may be deprived of the automatic raises under the Salary Act for up to two years in connection with each raise.

For every appointment (secs. 24-35), three conditions are basic. First, the candidate must satisfy the authorities as to the absence of racial obstacles. Second, the aspirant must prove his special qualification. Third, no one may count on an appointment unless the local party authority has given a favorable report on him.¹⁵ In other words, "stamped National Socialists alone"¹⁶ are admitted. Practically all of the junior officers

¹¹ The first *Durchführungsverordnung* provides that they be released from the duty of official secrecy for this purpose, unless important reasons of state stand in the way.

¹² This rule, too, is not laid down in the act itself, but in the first *Durchführungsverordnung*.

¹³ One of the affiliated organizations is the National Association of German Civil Servants.

¹⁴ The Civil Service Act leaves this entire field to the *Reichsdienststrafordnung*.

¹⁵ The procedure is regulated in the first *Durchführungsverordnung*. The system of political reporting is superintended by the Substitute of the Leader in Party Affairs, Rudolf Hess.

¹⁶ In the words of *Reichsstatthalter* Karl Kaufmann, *loc. cit.* (*supra*, note 5).

at present in the probationary administrative service hold at least membership in the Storm Troop Detachment. But it is perhaps useful to recall that most of them did not join the Brown Shirts before 1933, when they responded to official urging while still pursuing their academic studies. For the younger generation to be politically duly accredited is, therefore, a fairly general accomplishment. As a rule, tenure is for life; those not appointed for life hold appointment "subject to recall." A life appointment presupposes that the candidate is at least 27 years of age (35 years in the case of women); and that he has received the prescribed professional training and passed the entrance examinations or has held office for five years. The significance of the latter alternative cannot be in doubt, for under the act appointments "subject to recall" may be made irrespective of professional requirements; civil servants "subject to recall," after five years of tenure, are consequently eligible for life appointment.

The bulk of the remaining provisions¹⁷ are devoted to the guaranties of economic security of the civil servant—salary, compensation for "temporarily retired" officials (secs. 43–49), pension (compulsory retirement age is 65) including that of the widow and the children, and medical care in case of service accidents. These guaranties are implemented by the provision that claims arising from any such title may be pursued by the civil servant or his heirs before the administrative courts (secs. 142–147). No less important is the fact that the act recognizes the "duty of the state"¹⁸ to concern itself with the general welfare of the civil servant (sec. 36)—for instance, to take all necessary precautions in the physical arrangement and equipment of the office in order to protect his health. As "frankness and confidence shall exist between the civil servant and his superior," grievances may find a sympathetic ear, so that in many cases resort to the complaint procedure (sec. 42) will be rendered unnecessary. But whether frankness and confidence will ever arise between the old-timer in the public service and the brisk political missionaries dispatched into it by the National Revolution is an entirely different question.

FRITZ MORSTEIN MARX.

Harvard University.

¹⁷ The act has 184 sections.

¹⁸ Koenig, "Zur Rechtsprechung des Reichsgerichts über die Fürsorgepflicht im Arbeits- und Beamtenrecht des nationalsozialistischen Staates," *Verwaltungsarchiv*, Vol. 42, p. 220 (1937).

COUNTY AND TOWNSHIP GOVERNMENT IN 1935-36*

CLYDE F. SNIDER
University of Illinois

Quite generally recognized is the fact that rural local government in the United States has failed to keep pace with the improvements in governmental organization and procedure which have been made in the national, state, and municipal fields. In 1917, the county was referred to as the "dark continent" of American politics¹—an appellation which might have been applied with equal propriety to the rural subdivisions of counties known as towns or townships. Today, after two decades, it must be admitted that rural government still lags in its rate of progress; yet it is not the unexplored jungle of twenty years ago. In several states, comprehensive surveys have been made with a view to reorganization, and during the past few years the depression has served to stimulate local-government consciousness where previously little interest was displayed in local affairs. In increasing numbers, attempts are being made, in some instances through constitutional amendment but more often by statutory enactment, to render our local areas, organization, and functions more adequate to present-day needs. Various extra-legal developments are taking place also. It is the purpose of this article to summarize the more significant developments in the field of county and township government during the years 1935 and 1936. While not all of these developments, when measured by principles of sound public administration, can be said to be in the direction of progress, a definite trend in that direction is clearly discernible.

The statutes of the various states have necessarily constituted the most important single source of information for the data presented herein. However, use has been made also of court decisions, articles and notes in periodicals, and miscellaneous materials. In some instances, an effort has been made to determine, through correspondence, the extent to which the local units have actually made use of permissive legislation. For convenience, the data presented may be grouped under the following headings: (1) areas; (2) organization and personnel; (3) functions; (4) finance; (5) home rule and optional charters; and (6) intergovernmental relations.

I. AREAS

Territorial Consolidation. During the biennium under discussion, the problem of readjusting local governmental areas to meet modern needs

* The writer is indebted to Mr. George Traicoff, a student in the University of Illinois College of Law, for the preliminary analysis of much of the statutory material used in the preparation of this article.

¹ H. S. Gilbertson, *The County: The "Dark Continent" of American Politics* (New York, 1917).

was considered in several states. Oregon and Wisconsin enacted permissive legislation contemplating the voluntary consolidation of counties.² In Oregon, the new legislation, in the form of an amendment to an existing law, enables the local inhabitants, by petition and popular vote, to effect the elimination of individual counties through boundary changes. The Wisconsin law authorizes any two or more adjacent counties to consolidate by majority vote of the electors voting on the question in each county involved, the proposition being submitted to the voters either by action of the county governing boards or by initiative petition. The legislatures of Florida and Pennsylvania proposed constitutional amendments permitting city-county consolidation in certain metropolitan communities.³ The Florida amendment, which was approved by the voters of the state at the November election of 1936, authorizes the legislature, with the approval of the voters of Monroe county, to consolidate that county with the city of Key West. The proposal in Pennsylvania, which has yet to be submitted to the voters of the state, is for an amendment abolishing Philadelphia county as a separate municipal corporation and effecting a complete consolidation of the county government with that of the city of Philadelphia.

A practical obstacle in the way of territorial consolidation is frequently encountered in the necessity that existing indebtedness of the unit or units eliminated be assumed by one or more of the units resulting from the merger. In Indiana, a law was enacted which is designed to remove this obstacle as far as the consolidation of townships is concerned. By the terms of this statute, if any township is dissolved or has its boundaries changed, the territory of the township as it existed prior to such change will remain as a special taxing district for the purpose of retiring any township indebtedness existing at the time the change was made.⁴

An instance of territorial consolidation actually effected is provided in the merging of the 46 judicial townships of Los Angeles county, California, into 24 larger units. This consolidation, which was accomplished by order of the county board of supervisors, became effective in January, 1935. It is reported that the savings resulting from the consolidation during the first six months of operation thereunder amounted to nearly \$10,000 a month, and that, in addition, increased efficiency was evident in the administration of the township courts and constables' offices.⁵

On the other hand, the movement for consolidation of local areas met

² *Oregon Laws*, 1935 (reg. sess.), ch. 321; *Wisconsin Session Laws*, 1935, ch. 332.

³ *General Acts and Resolutions of Florida*, 1935, p. 1513; *Laws of Pennsylvania*, 1935, p. 1365.

⁴ *Laws of Indiana*, 1935, ch. 135.

⁵ Roger W. Jessup, "Consolidation Pays Dividends," *Tax Digest*, Vol. XIV, pp. 8-9, 22 (Jan., 1936).

with reverses on various fronts. Montana amended her constitution to restrict the power of the legislature to consolidate counties by providing that no county may be abandoned, abolished, or wholly or partially consolidated with any other county, except by majority vote of the qualified electors of such county. A proposed merger of Duval county, Florida, with the city of Jacksonville, which had been authorized by a constitutional amendment adopted in 1934, was defeated by the local voters in 1935. In California, the voters of the state rejected a proposed constitutional amendment designed to extend to any county containing one or more incorporated cities or towns the privilege, now enjoyed only by counties of 200,000 population or over, of framing and adopting a home-rule charter providing for city-county consolidation.⁶

New Areas. Further complication of the map of local areas resulted from the creation of various types of *ad hoc* districts. The districts thus established or authorized by state legislatures, by general or special act, include flood control districts; water conservation districts; sanitary districts; water supply districts; water and sewer districts; public service districts; water, fire, sewer, and lighting districts; heat, light, and power districts; and wind erosion conservation districts. In some instances, the boundaries of these new districts were made coterminous with those of counties or townships, while in others the new districts were made to consist of parts or combinations of the existing local areas.

II. ORGANIZATION AND PERSONNEL

New Offices Created. The period under consideration saw the structure of local government further complicated by the creation of various new offices and agencies. Perhaps the most significant of these are the county welfare agencies established in numerous states for the local administration of various welfare activities—particularly those subsidized by the federal government. In at least ten states, integrated departments were established for the local administration of two or more of the following welfare functions: old-age pensions, mothers' pensions, pensions for the blind, and ordinary relief.⁷ Some of the statutes providing for these new

⁶ *Laws, Resolutions, and Memorials of Montana*, 1935, ch. 102; Thomas H. Reed, "Consolidation of Duval County and Jacksonville Fails," *National Municipal Review*, Vol. XXIV, p. 402 (July, 1935); Victoria Schuck, "City-County Consolidation Amendment Defeated," *ibid.*, Vol. XXVI, p. 96 (Feb., 1937); Paul W. Wager, note in *ibid.*, Vol. XXV, p. 743 (Dec., 1936).

⁷ *General Laws of Alabama*, 1935, nos. 332, 448, 496; *Laws of Colorado*, 1936 (2nd spec. sess.), ch. 5; *Laws of Illinois*, 1935-1936 (1st spec. sess.), p. 70; *Laws of Indiana*, 1936, ch. 3; *Acts of Louisiana*, 1936, no. 14; *Laws of Maryland*, 1935, ch. 586; *ibid.*, 1936 (1st spec. sess.), chs. 145, 149; *Session Laws of Nebraska*, 1935 (spec. sess.), chs. 20, 21, 24, 30; *Oregon Laws*, 1935 (spec. sess.), ch. 55; *Wisconsin Session Laws*, 1935, ch. 554; *Session Laws of Wyoming*, 1935, ch. 64. In a few instances,

welfare departments make the establishment of such agencies mandatory in every county, while others make their establishment optional with the respective county governing boards; in Maryland, the option lies with the board of state aid and charities. The department is usually under an appointive or ex-officio board which is authorized to employ a director or superintendent to act as the department's executive officer. Several states other than those establishing integrated county welfare departments set up county boards to participate in the administration of old-age pensions. In some states, as Michigan and Missouri, these local boards are limited to receiving and investigating applications and reporting their recommendations thereon to the state authorities; while in others, as Montana, the local boards actually grant or deny the applications subject to appeal to the appropriate state agency.⁸ Other local offices established by general or special law in different states comprise a varied list, including health officers, park boards, recreation committees, rural policemen, traffic officers, tax collectors, building inspectors, and cattle-brand inspectors.⁹

Also of interest in the field of local organization is a Maine law providing a limited town meeting for the town of Sanford. This act, which was made subject to local referendum and was approved by the voters of the town, provides for a town-meeting consisting of from 150 to 200 members elected by districts for three-year overlapping terms. The act marks the first departure in the state of Maine from the traditional town-meeting. The power of the legislature to provide such a form of town government was sustained in an advisory opinion by the state supreme court.¹⁰

Consolidation and Abolition of Offices. On the other hand, steps were taken in several states with a view to simplifying local government by the consolidation of local offices. An amendment to the Alabama constitution¹¹ authorized the legislature to consolidate county offices in Calhoun and Tuscaloosa counties. The Montana legislature, acting under a con-

the creation of the new welfare departments was accompanied by the abolition of certain existing welfare agencies, and to that extent resulted in simplification, rather than complication, of the local organization setup. For the most part, however, the duties imposed upon the new departments concern either newly-under-taken activities or activities which had previously been carried on directly by the county governing board.

⁸ *Public Acts of Michigan*, 1935, no. 159; *Laws of Missouri*, 1935, p. 308; *Laws, Resolutions, and Memorials of Montana*, 1935, ch. 170.

⁹ Kentucky repealed an act of 1934 consolidating the offices of jailer and sheriff, thereby re-establishing these as two separate county offices. *Acts of Kentucky*, 1936-37 (4th spec. sess.), ch. 14.

¹⁰ *Private and Special Laws of Maine*, 1935, ch. 72; *In re Opinion of the Justices*, 133 Me. 532, 178 A.613 (1935); O. C. Hormell, "New Legislation Affecting Cities in Maine," *Public Management*, Vol. XVII, pp. 375-376 (Dec., 1935).

¹¹ See *infra*, "The Fee System" and footnote 70.

stitutional amendment ratified in 1934, enacted a law providing for the consolidation of any two or more constitutional county offices in any county by order of the board of county commissioners. A proposed amendment to the Kentucky constitution, which was given legislative approval in 1936 and will be submitted to the voters in the state election of 1937, authorizes the general assembly, by legislation of state-wide application or in accordance with classification based upon population, to consolidate any or all governmental offices or agencies existing within the territorial confines of the respective counties, and to redistribute or consolidate the powers and functions of such offices or agencies as it sees fit. By the terms of the 1935 "home-rule" amendment to the New York constitution, any county office other than that of judge, county clerk, or district attorney, in the counties within New York City, may be abolished by the city authorities, the functions of offices so abolished being transferred to appropriate city offices or to the courts or county clerks. In a few instances, the abolition or consolidation of local offices was effected directly by statutory provision. Thus, the office of city treasurer was abolished in cities of the second class in Indiana and the duties transferred to the respective county treasurers; while the office of county treasurer was abolished in certain North Carolina counties.¹²

A proposed amendment to the constitution of Alabama which would have permitted the legislature to consolidate county offices in Jefferson county was defeated by the voters in the 1936 election, as was a proposed amendment to the North Dakota constitution which, had it been adopted, would have meant a backward step in the movement for consolidation.¹³ The latter proposal sought to limit to counties with a population of 12,000 or less the provision, now applicable to those with a population of 15,000 or less, for compulsory consolidation of the offices of county judge and clerk of the district court; and to make optional with the county voters, instead of compulsory as at present, the further consolidation, in counties having a population of 6,000 or less, of the office of register of deeds with the other two offices named.

Qualifications, Election, and Removal of Officers. Various statutes and court decisions relating to the qualifications, election, and removal of local officers deserve notice. The supreme court of Florida, on the ground that the state constitution implies that the incumbent of a constitutional office shall be competent to perform the technical duties of his office,

¹² *Laws of Indiana*, 1935, ch. 112; *Acts of Kentucky*, 1936 (reg. sess.), ch. 19; *Laws, Resolutions, and Memorials of Montana*, 1935, ch. 125; *Laws of New York*, 1935, p. 1909; *Public-Local Laws of North Carolina*, 1935, chs. 10, 154.

¹³ *General Laws of Alabama*, 1935, no. 423; *Laws of North Dakota*, 1935, ch. 102; Charles W. Edwards, "Consolidation of Offices Defeated," *National Municipal Review*, Vol. XXVI, pp. 145-146 (Mar., 1937); letter to the writer from G. A. Gilbertson, deputy secretary of state of North Dakota, Bismarck, July 20, 1937.

upheld the power of the legislature to prescribe reasonable professional qualifications for the constitutional office of county surveyor. In Georgia, it was held that the constitutional provisions prescribing the qualifications of county officers refer only to such offices as were in existence when the constitution was adopted and do not apply to offices thereafter created by statute. Therefore, a statutory qualification of two years' residence for the office of county school superintendent was valid notwithstanding a constitutional provision fixing a four-year residence requirement for county officers. A Tennessee statute required full-time county health officers to possess the M.D. degree and be "schooled and experienced in public health work." Oklahoma repealed a statutory provision prohibiting county treasurers from holding office for more than two successive terms, as did Michigan a provision that township treasurers might not serve more than four years in succession. A proposed constitutional amendment making sheriffs of New York counties eligible to succeed themselves was given first legislative approval in 1935.¹⁴

In Michigan counties of 500,000 or more inhabitants, candidates for nomination to county office (or to the state legislature) are now required to make a cash deposit in lieu of filing a primary petition, such deposit to be forfeited by any such candidate who is not nominated or does not secure a vote equal to fifty per cent of that received by the winning candidate. By the terms of an act of 1936, the sheriffs of Rhode Island counties will hereafter be appointed by the governor, instead of by the general assembly as hitherto, and will serve at the pleasure of the chief executive. In South Dakota, under the terms of a new constitutional amendment, county school superintendents will henceforth be elected by non-partisan ballot. A Colorado statute provides the popular recall as a means of removing any elective county officer after he has held his office for six months and prescribes the procedure by which such recall is to be effected.¹⁵

County and Town Executives. Several attempts to provide local governmental units with real administrative heads were made during the period, some meeting with success and others with failure. The manager form of government was adopted by the voters of Monroe county (Rochester), New York, in November, 1935, and became effective on January 1, 1936. In adopting the manager plan, Monroe county acted under the so-called Buckley law of 1935, which provides a second alternative form

¹⁴ *Session Laws of Oklahoma*, 1935, p. 178; *Public Acts of Michigan*, 1935; no. 16; *Laws of New York*, 1935, p. 1915; *Public Acts of Tennessee*, 1935 (spec. sess.), ch. 37; *State v. Ward*, 117 Fla. 585, 158 So. 273 (1934); *Marshall v. Walker*, 183 Ga. 44, 187 S.E. 81 (1936).

¹⁵ *Laws of Colorado*, 1935 (reg. sess.), ch. 185; *Public Acts of Michigan*, 1935, no. 60; *Acts and Resolves of Rhode Island*, 1936 (December sess.), p. 14; George C. S. Benson, "State Constitutional Development in 1936," in this *REVIEW*, Vol. XXXI, pp. 280-285 (Apr., 1937).

of county government with an elective executive. A test case instituted to secure a judicial determination of the validity of the new government in Monroe county resulted in a decision by the appellate division of the state supreme court sustaining the validity of the manager plan and the enabling statute against the contention that the plan involved an unconstitutional delegation to the manager of legislative powers belonging to the board of supervisors. The court took the view that the powers transferred from the supervisors to the manager were of an administrative, rather than a legislative, character. In other cases involving the Monroe county charter, the courts have sustained the power of the manager to dismiss subordinate administrative officials, and the power of the legislature to transfer to the manager powers of an administrative nature formerly possessed by other statutory officers. A second New York county will be provided with a real administrative head—in this instance, an elective executive—when the new charter adopted by Nassau county in 1936 becomes effective on January 1, 1938. It is also of interest to note that three of the five alternative forms of government provided by the Fearon-Parsons law, enacted in pursuance of the recent amendment to the New York constitution, include provision for a county executive, elective under one plan and appointive under two.¹⁶

By acts of 1935, the Georgia legislature established an elective executive for Montgomery county and provided for referenda in several other counties upon the proposition of substituting a single commissioner of roads and revenues for the existing board of commissioners of roads and revenues.¹⁷ Home-rule charters providing for county executives were defeated in 1935 in Kern and Butte counties, California.¹⁸ A manager charter adopted by Douglas county, Nebraska, was prevented from taking effect at the beginning of 1937 by a decision of the state supreme court invalidating the optional statute under which the county had acted.¹⁹

The 1935 session of the Maine legislature provided for the establishment, subject to local referenda, of a manager form of government in the towns of Ashland, Oakland, and Richmond. A town manager is to be appointed for a term of not to exceed three years by a town council of five members elected for three-year overlapping terms at the annual town-meeting. A similar form of government, with a manager appointed by a board of five selectmen chosen for three-year overlapping terms, was provided for the town of Rumford and has been adopted by local referendum.

¹⁶ *Cort v. Smith*, 291 N.Y.S. 54 (1936); *Carey v. Smith*, 286 N.Y.S. 630 (1936); *Morrall v. Monroe County*, 271 N.Y. 48, 2 N.E. (2d) 40 (1936). See *infra*, "Home Rule and Optional Charters."

¹⁷ *Acts and Resolutions of Georgia*, 1935, pp. 620, 675, 728, 751, 784.

¹⁸ E. A. Cottrell, "Spotlight on the County Manager Plan," *National Municipal Review*, Vol. XXV, pp. 564-570 (Oct., 1936).

¹⁹ See *infra*, "Home Rule and Optional Charters."

The manager charter of the town of Fort Fairfield was amended to give the manager greater security of tenure. According to the terms of the amendment, the manager, who was formerly removable by the board of selectmen after a public hearing, may now be removed only by majority vote at a town meeting.²⁰

Personnel Administration. In the field of personnel administration, the period under consideration witnessed definite, if limited, progress. The merit system for county employees was established in four counties: in Jefferson county, Alabama, by special act of the state legislature; in San Diego county, California, by charter amendment; in Henrico county, Virginia, by action of the county board of supervisors; and in Camden county, New Jersey, by vote of the electors to place county employees under the jurisdiction of the state civil service commission.²¹ It is significant that in all of the three counties in which a local civil service authority is provided, the actual administration of the personnel system is placed in the hands of a single personnel officer or director. Permissive legislation which may ultimately be productive of tangible results was enacted in Ohio and Wisconsin. In the former state, the electors of any county are authorized to establish, by charter provision, a county civil service commission, personnel office, or personnel department. Under the terms of the Wisconsin statute, the board of supervisors of any county of less than 500,000 population may apply the merit system to the selection of deputy sheriffs, requiring the sheriff to make appointments from a list of eligibles certified by the director of the state bureau of personnel as a result of competitive examinations. A proposed amendment to the constitution of Pennsylvania providing for the consolidation of Philadelphia county with the city of Philadelphia enjoins upon the general assembly the duty of establishing a merit system for the appointment and promotion of officers and employees of the consolidated municipality.²²

Judicial, as well as legislative and popular, approval was given to the merit principle, the new systems in Jefferson county, Alabama, and San

²⁰ *Private and Special Laws of Maine*, 1935, chs. 12, 48, 52, 58, 77; O. C. Hormell, *loc. cit.*

²¹ *General Laws of Alabama*, 1935, no. 284; *Statutes of California*, 1935, p. 2361; James E. Pate, "Henrico County Adopts Merit System," *National Municipal Review*, Vol. XXV, pp. 543-544 (Sept., 1936); H. M. Olmsted, note in *ibid.*, Vol. XXV, pp. 737-738 (Dec., 1936). The civil service authority established for Jefferson county, Alabama, also serves the cities of Birmingham and Bessemer.

²² *Legislative Acts and Joint Resolutions of Ohio*, 1935, p. 132; *Laws of Pennsylvania*, 1935, p. 1365; *Wisconsin Session Laws*, 1935, ch. 349. Under the Wisconsin statute, an examination for deputy sheriffs in Racine county was conducted, but the proceedings were held to be irregular on the ground that the county ordinance requesting the state bureau to hold the examination did not conform to statutory requirements. (Letter to the writer from A. J. Opstedal, acting director, State Bureau of Personnel, Madison, June 7, 1937.)

Diego county, California, being upheld by the courts against attacks upon their constitutionality.²³ In Ohio, a significant decision of the supreme court resulted in bringing back under the jurisdiction of the state civil service commission some 10,000 county employees. Inasmuch as the civil service law places "deputies" in the unclassified service, it had been a common practice for county officers to designate a wide variety of their employees and assistants as deputies with a view to retaining full control over their appointment and removal. In the instant case, the court held that whether a county employee is a deputy depends not upon the title of his position but upon his actual duties. Thus, it was ruled that tax clerks, tellers, typists, and book-keeping machine operators in the county auditor's office, and jail guards in the sheriff's office, are not deputies who can perform all the duties of the principals, but are employees subject to civil service classification.²⁴

Deserving of notice as a step in the direction of providing short courses for the instruction of local officials is the work of the Town and County Officers Training School of the State of New York, recently incorporated by the regents of the University of the State of New York. The first school sponsored by this organization was held in Rochester in 1935, and the following year a second school was conducted in the same city under the auspices of the Rochester *Democrat and Chronicle*. The 1936 Rochester meeting was attended by more than 600 local officials, legislators, and citizens from nine counties, and was followed by similar schools in Albany, Buffalo, and Potsdam.²⁵ By an act of 1936, the New York legislature authorized the payment of a part of the cost of the training school's program from federal grants for vocational education, provided that the school's course of study and plan of instruction should be approved by the university regents. Legislation contemplating training courses for rural police was enacted in at least two instances, Barnstable county, Massachusetts, being authorized to establish a police training school under the direction of the sheriff, and the training school of the Pennsylvania State Police being charged with the duty of conducting courses for the training of policemen to serve the various political subdivisions of the state.²⁶

Organization of Local Officials. A significant development during recent years has been the strengthening of the "professional" organizations of

²³ *Yeilding v. State*, 232 Ala. 292, 167 So. 580 (1936); *Cornell v. Harris*, 59 P. (2d) 570 (Calif. Dist. Ct. of App., 4th dist., 1936).

²⁴ *State v. Guckenberger*, 131 Ohio St. 466, 3 N.E. (2d) 502 (1936). Cf. G. Lyle Belsley, "Personnel Administration," *Municipal Year Book*, 1937, pp. 15-20.

²⁵ Paul W. Wager, note in *National Municipal Review*, Vol. XXVI, pp. 40-41 (Jan., 1937); and data supplied by Professor M. P. Catherwood, Cornell University.

²⁶ *Acts and Resolves of Massachusetts*, 1935, ch. 61; *Laws of New York*, 1936 (reg. sess.), ch. 581; *Laws of Pennsylvania*, 1935, no. 411½.

local government officials, through which those officials seek to promote their own interests and the interests, as interpreted by them, of the governmental units which they serve. Although many such organizations have been in existence for several decades, the demand for retrenchment occasioned by the depression has been a signal for the creation of such organizations where they did not previously exist, and the invigoration of existing organizations. Several instances of such action occurred during the period under consideration. The Association of Virginia County Supervisors held its first annual meeting at Roanoke in March, 1935, and appointed a legislative committee to look after the association's interests in the general assembly. Two months earlier, an association was formed by the trial justices of Virginia and the judges of certain other local courts in that state.²⁷ During the same year, the local officials of Ohio organized the Ohio Association of County, Municipal, and Township Governments.²⁸ Organizations of local officers were given legal recognition in Pennsylvania by legislation providing that such agencies should cooperate with the state secretary of internal affairs in the preparation of budget and report forms for certain local units. The organizations thus recognized include the Pennsylvania State Association of Township Commissioners, the Association of Directors of the Poor and Charities and Corrections, the Pennsylvania State Association of County Commissioners, and the Pennsylvania State Association of County Controllers.²⁹ Subject to certain restrictions, Wisconsin counties and Minnesota towns were authorized to pay membership fees in local-officers' associations from their respective treasuries.³⁰

One of the most important developments in the organization of local officials, in the form of a federating of existing organizations, occurred in Indiana. Various local-government officers in that state have long been organized on a state-wide basis, the Indiana State Association of Township Trustees dating from 1890 and the Indiana County Commissioners Association from the early years of the present century. Nine other state-wide associations have for some years served as agencies for concerted action on the part of county sheriffs, assessors, auditors, treasurers, clerks, recorders, highway supervisors, surveyors, and attorneys, respectively. During the summer of 1935, the Indiana County and Township Officials Association was incorporated to serve as a federation of the 11 existing agencies. This new organization, the membership of which includes nearly

²⁷ James E. Pate, "Virginia County Officers Organize," *National Municipal Review*, Vol. XXIV, p. 273 (May, 1935).

²⁸ Wade S. Smith, note in *National Municipal Review*, Vol. XXIV, p. 647 (Nov., 1935).

²⁹ *Laws of Pennsylvania*, 1935, nos. 384, 386, 419.

³⁰ *Session Laws of Minnesota*, 1935 (reg. sess.), ch. 120; *Wisconsin Session Laws*, 1935, ch. 392.

3,000 local officials, adopted as its official publication the *Indiana County and Township Officer*, a monthly magazine which had previously served the associations of county commissioners and township trustees, and held its first annual convention in Indianapolis in December, 1935.³¹ The new federation promises to enhance still further the influence of county and township officers over the course of legislation pertaining to local government—an influence already exerted with a high degree of effectiveness through the individual associations.

III. FUNCTIONS

New Functions. The list of functions performed by counties and townships continued to grow with the enactment of legislation conferring new functions upon those units and broadening their powers with respect to existing functions. Counties in Colorado, Florida, Ohio, Oregon, South Carolina, and South Dakota were authorized to acquire land for park and/or recreational purposes, while counties in North Dakota and Oregon were authorized to set aside for park purposes land acquired for delinquent taxes. Oregon and Virginia counties, and Louisiana parishes, were authorized to establish and maintain airports. The power to establish and operate electric utility plants was conferred upon the counties of Mississippi and Tennessee and upon three Vermont towns; while two towns in the latter state, and Missouri counties of 25,000 or more inhabitants, were authorized to operate water utilities. Several South Carolina counties were authorized to erect county hospitals; while Kentucky counties and about half of the counties of North Carolina were authorized to provide by contract for the hospitalization of their indigent sick.³² A

³¹ Data from the writer's doctoral dissertation presented at the University of Illinois in 1936. Mention might also be made of the American County Association, which was incorporated under the laws of Illinois in 1933 with headquarters in Chicago. This association was apparently designed to effect a national organization of county officials and persons interested in county government, and to serve as a central clearing-house for information relative to county administration. For several months during 1935, the association published the *National County Magazine* as its official organ, and in October of that year a national convention was held in Chicago. During recent months, however, the organization seems to have lapsed into inactivity.

³² *Laws of Colorado*, 1935 (reg. sess.), ch. 222; *General Acts and Resolutions of Florida*, 1935, p. 579; *Acts of Kentucky*, 1936 (reg. sess.), ch. 91; *Acts of Louisiana*, 1936, no. 222; *Laws of Mississippi*, 1936 (reg. sess.), ch. 185; *Laws of Missouri*, 1935, p. 327; *Public Laws and Resolutions of North Carolina*, 1935, ch. 65; *Laws of North Dakota*, 1935, ch. 118; *Legislative Acts and Joint Resolutions of Ohio*, 1935 (reg. sess.), p. 132; *Oregon Laws*, 1935 (reg. sess.), chs. 217, 218, 226; *ibid.* (spec. sess.), ch. 15; *Acts and Joint Resolutions of South Carolina*, 1935 (reg. sess.), nos. 92, 153, 308; *ibid.*, 1936, nos. 656, 1124, 1131; *Laws of South Dakota*, 1935, ch. 76; *Public Acts of Tennessee*, 1935 (reg. sess.), ch. 32; *Acts and Resolves of Vermont*, 1935 (reg. sess.), nos. 242, 243, 257, 263, 264; *Acts of Virginia*, 1936 (reg. sess.), ch. 252.

considerable number of states conferred upon their counties new or extended functions with respect to welfare administration, and in several states rather broad powers of planning and zoning were conferred upon counties by general enabling statutes.³³ Other functions conferred upon some or all counties in various states include those of establishing and maintaining museums, art galleries, and memorials; establishing and maintaining county libraries; conducting free fairs; establishing and operating or leasing farm marketing centers; exterminating mosquitoes; erecting traffic signals; conducting recreational programs; and establishing fire control units.

Floods, dust storms, and the need for soil conservation are reflected in a large number of legislative enactments. Nebraska counties, and certain counties in the Carolinas, were authorized to provide terracing or soil-erosion machinery to be rented to farmers, similar authority with respect to drainage machinery being conferred upon the counties of Alabama. Powers with respect to the improvement of water courses were conferred upon Oregon counties, Louisiana parishes, and second-class townships in Pennsylvania; while 16 New York counties were authorized to appropriate public funds to defray the administrative expenses of flood-control organizations. Boards of county commissioners in Oklahoma were given rather broad power to take action, upon petition by local landowners, for the prevention of soil erosion; while in Kansas an attempt to confer a similar power was frustrated by the state supreme court. A statute enacted by the Kansas legislature in 1935 authorized boards of county commissioners to devise methods and means to stop the drifting of soil, but this act was declared unconstitutional the following year on the ground that it comprised an attempt to delegate to the county boards legislative power over a matter not local in character. The Kansas constitution authorizes the legislature to confer upon county tribunals "such powers of local legislation and administration as it shall deem expedient," but the court held that the problem of drifting soil is state-wide and not local in character, and that therefore the power to act with respect thereto could not be delegated to county boards.³⁴

In several instances, counties and townships were vested with power to enact local police legislation for certain purposes. Thus, Oregon counties were authorized to license, tax, or regulate pin-ball games; second-class

³³ See *supra*, "New Offices Created"; *infra*, "Planning and Zoning."

³⁴ *General Laws of Alabama*, 1936 (spec. sess.), no. 127; *Kansas Session Laws*, 1935, ch. 138; *Acts of Louisiana*, 1936, no. 122; *Session Laws of Nebraska*, 1935 (reg. sess.), ch. 54; *Laws of New York*, 1936 (reg. sess.), ch. 11; *Public Laws and Resolutions of North Carolina*, 1935, ch. 172; *Session Laws of Oklahoma*, 1935, p. 343; *Oregon Laws*, 1935 (reg. sess.), ch. 339; *Laws of Pennsylvania*, 1935, no. 406; *Acts and Joint Resolutions of South Carolina*, 1935 (reg. sess.), no. 477; *ibid.* (spec. sess.) no. 601; *State v. Hardwick*, 144 Kan. 3, 57 P. (2d) 1231 (1936).

townships in Pennsylvania were empowered to regulate the manufacture, sale, or exposure of fireworks; in South Carolina, certain counties were authorized to license tourist camps outside incorporated cities and towns, while others were authorized to license "rolling stores"; and boards of county commissioners in Utah were authorized to regulate the growing of sugar beet seed with a view to protecting its quality.³⁵ Several states, in new liquor-control laws, conferred upon counties and other local units local-option powers with respect to regulating or prohibiting the sale of liquor within their borders.³⁶ Also of interest are certain laws designed to permit the expenditure of public funds by local governments for the purpose of "advertising" their respective communities. One such law authorizes El Paso county, Texas, to levy a tax to finance the activities of a board of county development charged with the duty of "advertising and promoting the growth and development" of the county and its county seat; while another empowers any New Jersey township or municipality to establish a local industrial commission to investigate and publicize the advantages of the local community from an economic and industrial standpoint.³⁷

Planning and Zoning. One of the most significant developments during the biennium was that in the field of rural planning and zoning. Under the stimulus provided by the National Resources Committee, state legislation authorizing local planning, and local action in pursuance of such legislation, have proceeded apace. Six states—Florida, Idaho, Indiana, New Jersey, Virginia, and Washington—enacted general enabling statutes authorizing the establishment of a county planning commission in any county.³⁸ In five of these states, the authority to establish the county planning agencies is vested in the county governing boards of the respective counties, while the Florida statute vests that authority in the state planning board. Tennessee authorized the state planning commission to establish planning regions, which may or may not coincide with county

³⁵ *Oregon Laws*, 1935 (reg. sess.), ch. 369; *Laws of Pennsylvania*, 1935, no. 370; *Acts and Joint Resolutions of South Carolina*, 1935 (reg. sess.), no. 330; *ibid.*, 1936, no. 970; *Laws of Utah*, 1935, ch. 28.

³⁶ *Laws of Colorado*, 1935 (reg. sess.), ch. 142; *Acts of Louisiana*, 1935 (1st spec. sess.), no. 17; *ibid.* (2nd spec. sess.), no. 22; *Session Laws of Wyoming*, 1935, ch. 87. Cf. *Laws of Pennsylvania*, 1935, nos. 187, 211, providing for local referenda on questions of Sunday movies and polo games.

³⁷ *Acts of New Jersey*, 1936 (reg. sess.), ch. 154; *General and Special Laws of Texas*, 1935 (1st spec. sess.), ch. 370.

³⁸ *General Acts and Resolutions of Florida*, 1935, p. 1174; *General Laws of Idaho*, 1935 (1st spec. sess.), ch. 51; *Laws of Indiana*, 1935, ch. 239; *Acts of New Jersey*, 1935 (reg. sess.), ch. 251; *Acts of Virginia*, 1936 (reg. sess.), ch. 427; *Session Laws of Washington*, 1935, ch. 44. The county planning authority is designated as a "planning council" in Florida and a "planning board" in New Jersey.

boundaries, and to appoint planning commissions therein.³⁹ The setting up of official county planning agencies under these and earlier statutes had proceeded until 231 such agencies could be reported as in existence in 16 states by the beginning of 1936.⁴⁰ It is significant that the only state in which every county was provided with an official planning agency was Florida, under whose statute the local authorities are established by the state planning board rather than by the county governing bodies. In addition to the seven county enabling acts just mentioned, the Tennessee legislature authorized the creation of a county planning commission in Shelby county, while New Hampshire enacted a general enabling act for the establishment of town planning boards.⁴¹ In actual practice, moreover, local planning agencies are not limited to the official bodies established under enabling statutes specifically providing for their creation. In numerous states wherein no statutes have been enacted authorizing the establishment of official county planning commissions, laws setting up state planning boards have charged those bodies with the duty of coöperating with and advising local planning agencies, and in some instances have specifically directed the state board to encourage the establishment of local planning bodies.⁴² Under a broad interpretation of the authority vested in them by such statutes, state planning boards in various states have sponsored the setting up of unofficial county planning commissions to coöperate with the state agency and to serve until official commissions may be provided for by law.⁴³

The year 1935 saw county zoning enabling acts of general application enacted in five states, viz., Illinois, Indiana, Michigan, Tennessee, and Washington.⁴⁴ Wisconsin's law of 1923, which had been amended in 1929

³⁹ *Public Acts of Tennessee*, 1935 (reg. sess.), ch. 43.

⁴⁰ C. I. Hendrickson, *County Planning and Zoning* (mimeographed publication of the Division of Land Economics, Bureau of Agricultural Economics, U. S. Department of Agriculture, Washington, June, 1936), p. 3. The states having the largest numbers of commissions were Florida (67), Idaho (31), California (30), Wisconsin (29), Washington (25), and New York (19). For a list of the county planning enabling statutes in effect on January 1, 1936, see *ibid.*, pp. 10-11.

⁴¹ *Private Acts of Tennessee*, 1935 (reg. sess.), Vol. II, ch. 706; *Laws of New Hampshire*, 1935, ch. 55.

⁴² *Acts of Louisiana*, 1936, no. 38; *Laws of Mississippi*, 1936 (reg. sess.), ch. 189; *Laws, Resolutions, and Memorials of Montana*, 1935, ch. 176; *Laws of New Mexico*, 1935, ch. 137; *Laws of North Dakota*, 1935, ch. 217; *Session Laws of Oklahoma*, 1935, p. 87; *Oregon Laws*, 1935 (reg. sess.), ch. 5; *Laws of South Dakota*, 1935, ch. 191.

⁴³ Unofficial planning bodies were reported in 373 counties on January 1, 1936. The states having the largest numbers of such planning commissions were Texas (113), South Dakota (65), North Dakota (53), Missouri (33), Oregon (29), and Wyoming (23). Hendrickson, *op. cit.*, p. 3.

⁴⁴ *Laws of Illinois*, 1935 (reg. sess.), p. 689; *Laws of Indiana*, 1935, ch. 239; *Public Acts of Michigan*, 1935, no. 44; *Public Acts of Tennessee*, 1935 (reg. sess.),

to give counties authority to zone rural lands for agricultural, forestry, and recreational purposes, was again amended in 1935 to broaden the power of the county board with respect to regulating buildings and eliminating non-conforming uses.⁴⁵ By the beginning of 1936, zoning ordinances had been adopted by 42 counties in six states.⁴⁶ It is to be noted, however, that, except in Wisconsin, county zoning has been confined almost exclusively to urban and suburban areas outside incorporated municipalities, with emphasis upon the regulation of the height, bulk, and use of buildings. But a program of rural zoning is now well under way in Wisconsin, 24 rural counties in the northern and central parts of that state having now adopted zoning ordinances for the purpose of regulating land use,⁴⁷ and it is to be expected that certain other states will eventually follow Wisconsin's example. Although the recent enabling laws of Illinois and Tennessee exempt agricultural lands from the zoning regulations, those of Michigan and Indiana clearly envisage the regulation of rural land use.⁴⁸

County zoning suffered at least a temporary set-back in Georgia when the supreme court of that state declared invalid, as contrary to the state constitution, an act of 1927 which authorized zoning in Glynn county, and under which that county adopted a zoning ordinance in 1928. A constitutional amendment was necessary in Georgia to enable the legislature to confer zoning powers upon cities, and apparently a similar amendment will be necessary to permit county zoning.⁴⁹

Transfer of Functions. The period under consideration witnessed a few

ch. 33; *Session Laws of Washington*, 1935, ch. 44. Tennessee also enacted a special enabling act applying to Shelby county. *Private Acts of Tennessee*, 1935 (reg. sess.), Vol. II, ch. 625. Prior to 1935, California and Wisconsin had laws authorizing county zoning in all counties, while zoning was authorized in certain counties in Georgia, Kentucky, Maryland, and Virginia. See Hendrickson, *op. cit.*, pp. 22-23.

⁴⁵ *Wisconsin Session Laws*, 1935, chs. 303, 403. Cf. W. A. Rowlands and F. B. Trenk, *Rural Zoning Ordinances in Wisconsin* (Circular 281, Extension Service of the College of Agriculture, University of Wisconsin, Madison, July, 1936), p. 3.

⁴⁶ For a list of such counties, see Hendrickson, *op. cit.*, pp. 24-25.

⁴⁷ For a list of 23 of these counties, five of which adopted their ordinances in 1935, see Hendrickson, *op. cit.*, p. 25. The recent adoption of an ordinance by Taylor county brings the total number of zoned rural counties to 24. (Letter to the writer from Professor W. A. Rowlands, University of Wisconsin, Aug. 3, 1937). Milwaukee county has an urban zoning ordinance.

⁴⁸ Each of the six New England states has a law authorizing town zoning, while a few other states authorize zoning by some or all townships. See Hendrickson, *op. cit.*, p. 26.

⁴⁹ *Commissioners of Glynn County v. Cate*, 183 Ga. 111, 187 S.E. 636 (1936); Walter H. Blucher, "Planning and Zoning," *Municipal Year Book*, 1937, pp. 47-52; Hendrickson, *op. cit.*, p. 24. A proposed amendment which would have permitted certain counties, including Glynn, to enact zoning ordinances, was defeated by the voters of the state in 1930. Hendrickson, *op. cit.*, p. 23.

instances of the transfer of functions from local units of government to the state and of the transfer of functions, within the local field, from the township to the county. Outstanding in the former class is the transfer of the county roads of Delaware to the state highway department. Certain examples of the shifting of functions from the township to the county, or the authorization of such shifting, may be mentioned. Ohio provided that any county may assume the administration of non-institutional poor relief or provide a county park system, while any charter county, by charter amendment, may establish a county health department to supersede all district health offices within the county. Michigan counties were authorized to adopt the county rather than the township as the unit for rural zoning. The year 1936 also witnessed the completion in Michigan of the gradual transfer of township roads to the counties under an act of 1931, and it is reported that the county is demonstrating its superiority as an administrative unit. Although the trend of the period was distinctly in the direction of centralization rather than decentralization of functions, an occasional instance of decentralization is encountered, as, for example, an act of Ohio providing that the local units of government should take over the duties of the state relief commission.⁵⁰

Functional Consolidation. Although the laws designed to promote geographic consolidation or the transfer of governmental functions from smaller to larger units were quite limited in number, numerous statutes authorizing what is frequently designated as "functional consolidation" were enacted. In a sense an alternative to physical consolidation and the transfer of functions to larger existing units, functional consolidation involves the coöperation of two or more existing local units in the performance of particular functions. It sometimes takes the form of a joint performance by the units concerned, frequently through the creation of a special district, of a function common to both or all; while in other instances it involves a contractual agreement whereby one political subdivision performs the service or services concerned for the other unit or units at the expense of the latter.⁵¹ Usually the effecting of such consolidation is left by the statutes to the option of the local units, although in some instances joint districts have actually been set up by the legislature for the performance of designated functions. While functional consolidation may be authorized as between any two or more units of local government, it has in practice been most frequently provided, on the one hand, with

⁵⁰ *Laws of Delaware*, 1935, ch. 107; *Public Acts of Michigan*, 1935, no. 44; *Legislative Acts and Joint Resolutions of Ohio*, 1935 (reg. sess.), pp. 132, 571; Murray D. Van Wagoner, "Township Roads," *Engineering News-Record*, Vol. CXVII, pp. 649-652 (Nov. 5, 1936).

⁵¹ Cf. John M. Peirce, "Mergers in Government," *Tax Digest*, Vol. XIV, pp. 192-193, 207 (June, 1936).

respect to two or more contiguous counties, and, on the other, with respect to individual counties and the cities or other political subdivisions located therein.

In three states, a blanket power of effecting functional consolidation was conferred upon certain local units. Thus, an Ohio statute was enacted authorizing the board of county commissioners of any county to enter into an agreement with the legislative authority of any taxing subdivision thereof to perform for such subdivision any function or service which the latter is authorized to perform. Likewise, one county may contract with another for the performance of any county function. The law provides that any such agreement shall either fix the amount to be paid by the county or subdivision receiving such service to the county rendering the same, or prescribe a method for determining such amount. A California statute authorizes counties to contract with cities and towns within their borders to perform any municipal function or functions for such cities and towns. And in New York the recent "home-rule" amendment stipulates that the boards of supervisors of two or more counties may provide, by agreement, for the discharge of one or more governmental functions.⁵³

Much more numerous are the states which authorized functional consolidation with respect to the performance of certain designated services. Thus, several of the new public-welfare acts provide that two or more counties may, with the approval of the state department of public welfare, coöperate in the establishment of district welfare departments serving the coöperating counties.⁵³ Pennsylvania authorized the consolidation of the poor districts within any county either by popular vote or, upon petition and after a hearing, by order of the court of quarter sessions. In New Mexico, 10 health districts, consisting of from two to four counties each, were established with district health officers supplanting county officials; while Indiana and North Carolina authorized the establishment of full-time health districts consisting of two or more counties. Washington enacted a statute providing that any two or more adjacent counties may maintain a joint tuberculosis sanatorium; while Fulton county, Georgia, and the city of Atlanta were empowered to contract with each other with respect to the operation of a sewage disposal plant.⁵⁴

⁵³ *Statutes of California*, 1935, ch. 735; *Laws of New York*, 1935, p. 1909; *Legislative Acts and Joint Resolutions of Ohio*, 1935 (reg. sess.), p. 102.

⁵⁴ *Laws of Colorado*, 1936 (2nd spec. sess.), ch. 5; *Laws of Illinois*, 1935-1936 (1st spec. sess.), p. 70; *Laws of Indiana*, 1936, ch. 3; *Session Laws of Wyoming*, 1935, ch. 64.

⁵⁴ *Acts and Resolutions of Georgia*, 1935, p. 467; *Laws of Indiana*, 1935, ch. 217; *Laws of New Mexico*, 1935, ch. 131; *Public Laws and Resolutions of North Carolina*, 1935, ch. 142; *Laws of Pennsylvania*, 1935, no. 287; *Session Laws of Washington*, 1935, ch. 86.

In South Carolina, cities, towns, and counties were authorized to take joint action in the operation of parks, playgrounds, and recreational centers; while school districts in Colorado were empowered to cooperate with cities or counties in the operation of playgrounds and recreation systems. Some degree of consolidation with respect to park administration was actually achieved in two Wisconsin communities: in Milwaukee county, the city of Milwaukee and several smaller municipalities voted to transfer jurisdiction over their municipal parks to the county, which already administered a park system of its own; while the park commission of the city of Wausau joined with the county park commission of Marathon county in employing a park superintendent and other administrative personnel. County fire protection districts in California were empowered to contract with any contiguous municipality or municipalities to receive fire-protection service therefrom.⁵⁵ Other functions which local governmental units in various states were authorized or directed to perform on a cooperative basis, either through joint action or by contractual agreement, include: soil-conservation and flood-prevention activities; operation of water and electric utilities; construction and maintenance of airports; establishment and management of libraries; maintenance of schools; construction and maintenance of public halls; conducting of civil service examinations; and the establishment of road camps for the employment of local prisoners.

Perhaps the highest degree of functional consolidation yet achieved in any community is to be found in Los Angeles county, California. There, in 1936, the county, under contract, assessed property and collected taxes for 38 of the county's 44 cities, performed health functions for 36 cities, provided library facilities for 21 cities, and performed civil-service functions for two cities.⁵⁶

IV. FINANCE

Budgeting and Accounting. Significant progress was made during the biennium in the field of local budgeting and accounting. Florida required all counties and other taxing districts to adopt annual budgets, while New Jersey completely revised her local-budget law with a view to placing local units on a "cash basis" by the end of 1943. Legislation designed to strengthen existing statutes with respect to local budgeting was enacted in Alabama, Colorado, Indiana, Nevada, and Pennsylvania.

⁵⁵ *Statutes of California*, 1935, ch. 273; *Laws of Colorado*, 1935 (reg. sess.), ch. 222; *Acts and Joint Resolutions of South Carolina*, 1935 (reg. sess.), no. 92; Lee S. Greene, "Milwaukee City Parks to be Transferred to County," *National Municipal Review*, Vol. XXV, p. 374 (June, 1936); L. H. Weir, "Parks and Recreation," *Municipal Year Book*, 1937, pp. 64-69.

⁵⁶ Frank M. Stewart, "City-County Contractual Relationships," *Public Management*, Vol. XIX, pp. 14-17 (Jan., 1937).

Certain Tennessee counties were provided with budget systems by special laws. New Hampshire, in 1935, enacted an optional town budgeting law under which 68 towns were operating by the end of 1936. A provision of Missouri's county budget law prohibiting the county governing body from revising the estimates of expenditures submitted by the circuit court and circuit clerk, was upheld by the supreme court of that state against the contention that it constituted an unlawful delegation to the court and clerk of the power to tax.⁵⁷

Several states enacted legislation designed to improve local accounting methods and secure reliable audits of local accounts. The most comprehensive measure of this character was that enacted by Kansas in 1935. The Kansas statute sets up a state municipal accounting board charged with the licensing of municipal accountants. Within two years after July 1, 1935, and annually thereafter, all counties and all cities of the first and second classes must have their accounts audited by either municipal public accountants or certified public accountants; and by January 1, 1942, a uniform system of accounting prescribed by the state authorities must be installed and in operation in all counties, townships, and other local units. By the terms of legislation enacted in 1935, Idaho counties are required to have biennial audits according to specifications prescribed by the state bureau of public accounts; while all county officers in Alabama are required to keep accounts and make reports in conformity to a uniform system prescribed by state authorities.⁵⁸

Revenue and Taxation. During recent years, increased expenditures for relief, coupled with mounting delinquency in property-tax payments, have made it imperative that the states make new sources of revenue available to the local units. The necessity for such action has been es-

⁵⁷ *General Acts of Alabama*, 1935, nos. 300, 379; *Laws of Colorado*, 1935 (reg. sess.), ch. 158; *General Acts and Resolutions of Florida*, 1935, p. 165; *Laws of Indiana*, 1935, chs. 150, 173; *Statutes of Nevada*, 1935, ch. 44; *Laws of New Hampshire*, 1935, ch. 9; *Acts of New Jersey*, 1936 (reg. sess.), ch. 211; *Laws of Pennsylvania*, 1935, nos. 384, 386, 419; *Private Acts of Tennessee*, 1935 (reg. sess.), Vol. II, chs. 483, 759, 797; *State v. Thatcher*, 94 S.W. (2d) 1053 (Supreme Court of Missouri, 1936); A. E. Buck, "Municipal Budgeting," *Municipal Year Book*, 1937, pp. 21-25. See also *infra*, "State-Local Relations." The New Jersey statute, although constituting a step in the direction of orderly financial planning, will apparently require supplementary legislation if the purpose of the law is to be realized. See George A. Shipman and Harold J. Saum, *Changes Made by the Local Budget Act of 1936* (Princeton Local Government Survey, Nov. 23, 1936), p. 16.

⁵⁸ *General Laws of Alabama*, 1935, no. 26; *General Laws of Idaho*, 1935 (reg. sess.), ch. 80; *Kansas Session Laws*, 1935, ch. 275. In Oregon, a law of 1929 requiring the secretary of state to prescribe a uniform system of accounting for counties and other local government units was supplanted in 1935 by a statute directing that officer to prescribe systems of accounting and make periodic audits for such of the local units as elect to make use of that service. *Oregon Laws*, 1935 (reg. sess.), ch. 405.

pecially acute in those states in which fixed limitations on local property levies have been imposed by statute or by constitutional provision. For the most part, the various states have met the need for additional local revenues by sharing with the local units the proceeds from certain state-administered taxes, by making direct grants to the localities from the state treasury, or by a combination of these methods. The taxes most commonly shared with the local units are those on sales, income, gasoline, and liquor.

During the biennium under consideration, California provided for distribution to counties and cities of fifty per cent of all license fees collected under the provisions of the state alcohol control act; while Oregon amended her law to provide for distribution to the local units of a larger portion of the receipts from the liquor tax. California also provided for apportionment to counties of a part of the proceeds from motor vehicle license fees; while the counties of Washington were allotted a share of the proceeds from the gasoline tax. Florida levied a tax on chain stores, the proceeds from which were to be distributed to the counties for school purposes; while Delaware levied a state-administered county income tax to provide revenue for relief purposes in New Castle county.⁵⁹

In the field of state grants and subsidies may be mentioned a Kentucky statute appropriating funds to be distributed to the counties for highway purposes; a Florida act providing for an additional apportionment to counties from funds of the state racing commission; and a Wisconsin law providing for grants to counties for public-health nursing.⁶⁰ Moreover, in conformity to the requirements of the federal Social Security Act, the statutes of the period providing for county administration of old-age pensions, mothers' pensions, and pensions for the blind regularly provided for partial reimbursement of the local units by the state for expenditures made for those purposes.⁶¹ Also of interest in this connection are laws of Colorado and Oregon providing for the distribution to counties of funds received from the federal government under the terms of the Taylor Grazing Act, and a law of Vermont providing for the distribution to towns of federal funds received under the Weeks law.⁶²

⁵⁹ *Statutes of California*, 1935, chs. 330, 362; *Laws of Delaware*, 1935, ch. 12; *General Acts and Resolutions of Florida*, 1935, p. 193; *Oregon Laws*, 1935 (reg. sess.), ch. 427; *Session Laws of Washington*, 1935, ch. 111.

⁶⁰ *General Acts and Resolutions of Florida*, 1935, p. 980; *Acts of Kentucky*, 1936 (reg. sess.), ch. 5; *Wisconsin Session Laws*, 1935, ch. 556. See *infra*, "State-Local Relations."

⁶¹ See *General Laws of Alabama*, 1935, nos. 448, 496; *Statutes of California*, 1935, chs. 633, 703; *Laws of Illinois*, 1935 (reg. sess.), p. 256; *Laws of Indiana*, 1936, ch. 3; *Acts of Louisiana*, 1936, nos. 33, 53, 57; *Laws, Resolutions, and Memorials of Montana*, 1935, ch. 170; *Laws of New Hampshire*, 1935, ch. 127; *Acts of New Jersey*, 1936 (reg. sess.), ch. 31; *Session Laws of Wyoming*, 1935, ch. 101.

⁶² *Laws of Colorado*, 1935 (reg. sess.), ch. 123; *Oregon Laws*, 1935 (reg. sess.),

Several states, with a view to alleviating the distress of hard-pressed property owners, enacted laws providing for installment payment of taxes, waiving penalties, and extending time of payment.⁴³ Florida established in each county a delinquent tax adjustment board vested with authority to compromise delinquent taxes on real and personal property for 1933 and previous years, the action of the county board being subject to review by a state board of appeals. Minnesota enacted a law designed to facilitate the control and sale of lands which have become public property through tax delinquency.⁴⁴

Indebtedness. During the period under consideration, several states took action to liberalize the power of their local units to borrow for relief purposes. Thus, Ohio authorized the issuance of county relief bonds in anticipation of revenue from the public utility tax; Iowa provided that indebtedness incurred solely for relief purposes should not be construed as having been incurred for general or ordinary purposes; and Indiana enacted a statute designed to facilitate local borrowing for relief. Also in the direction of liberalizing local borrowing power is a proposed constitutional amendment in New York, which was given first legislative passage in 1935, to the effect that debts incurred by counties, cities, towns, and villages for certain designated revenue-producing utilities shall not be included in computing the debt limit of the issuing municipality.⁴⁵

On the other hand, some states took action to restrict local borrowing. In North Carolina, for instance, a constitutional amendment proposed in 1935 and ratified in 1936 provides that, except for certain enumerated purposes, the legislature shall have no power to authorize counties to contract new indebtedness in any year in excess of two-thirds of the amount to which county indebtedness has been reduced during the preceding year, unless the contracting of such new indebtedness is made contingent upon the approval of the voters of the county. New Jersey's new local-budget law made more drastic the existing limitations upon the power of local units in that state to issue tax-anticipation notes and obligations secured by tax-delinquent property. Virginia provided that, after January 1, 1937, all bonds issued by counties and magisterial dis-

ch. 120; *Acts and Resolves of Vermont*, 1935 (reg. sess.), no 220. See *infra*, "Federal-Local Relations."

⁴³ *Laws of Maryland*, 1935, ch. 387; *Public Acts of Michigan*, 1935, no. 57; *Session Laws of Nebraska*, 1935 (spec. sess.), ch. 15.

⁴⁴ *General Acts and Resolutions of Florida*, 1935, pp. 1305, 1311; *Session Laws of Minnesota*, 1935 (reg. sess.), ch. 386.

⁴⁵ *Laws of Indiana*, 1935, ch. 117; *Acts and Joint Resolutions of Iowa*, 1935, ch. 89; *Laws of New York*, 1935, p. 1917; *Legislative Acts and Joint Resolutions of Ohio*, 1935 (reg. sess.), ch. 571.

tricts shall be in serial form, payable over a period of not more than thirty years in annual or semi-annual installments beginning not later than five years after the date of issuance.⁶⁶

Purchasing. Some progress in the direction of improved purchasing procedure was made during the biennium. Central purchasing agencies were provided for Nassau county, New York; Allendale and Darlington counties, South Carolina; Cocke county, Tennessee; and Bryan and Decatur counties, Georgia. Purchases by Chilton and Madison counties, Alabama, were required to be made on the basis of competitive bidding; and purchases by Sullivan county, Tennessee, must now be authorized by the county judge or chairman of the county court. Four Maine statutes providing optional manager charters for as many towns provided that the town manager should act as purchasing agent. Wisconsin, by general law, authorized the appointment of purchasing agents in counties having a population of less than 250,000; while Indiana required that county highway materials and equipment be purchased on the basis of competitive bidding.⁶⁷

The Fee System. Several states took significant steps, during the biennium under consideration, in the direction of limiting or abolishing the fee system of compensating local officials. In South Carolina, final legislative approval, following ratification by the voters, was given to constitutional amendments authorizing the general assembly to enact local or special laws fixing the compensation of county officers and requiring that

⁶⁶ *Acts of New Jersey*, 1936 (reg. sess.), ch. 211; *Public Laws and Resolutions of North Carolina*, 1935, ch. 248; *Acts of Virginia*, 1936 (reg. sess.), ch. 372; George C. S. Benson, "State Constitutional Development in 1936," in this REVIEW, Vol. XXXI, pp. 280-285 (Apr., 1937); George A. Shipman and Harold J. Saum, *op. cit.*, pp. 7-11. Also of significance in its relation to the problem of local indebtedness is the decision of the United States Supreme Court (*Ashton v. Cameron County Water Improvement Dist.*, 298 U. S. 513) declaring unconstitutional the Municipal Debt Readjustment Act passed by Congress in 1934. The operation of this act within any state was made contingent upon state consent, and during 1935 numerous state legislatures enacted legislation authorizing their local subdivisions to avail themselves of the provisions of the law. Although relatively few applications were made under the act for the readjustment of local indebtedness, it is probable that the mere existence of the act was influential in other instances in securing the consent of minority creditors to composition agreements. Cf. *Legal Notes on Local Government*, Vol. II, p. 10 (July, 1936).

⁶⁷ *Local and Special Acts of Alabama*, 1936, nos. 1, 45, 149; *Acts and Resolutions of Georgia*, 1935, pp. 580, 630; *Laws of Indiana*, 1935, ch. 145; *Private and Special Laws of Maine*, 1935, chs. 12, 48, 52, 58; *Laws of New York*, 1936 (reg. sess.), ch. 677; *Acts and Joint Resolutions of South Carolina*, 1936, nos. 745, 921; *Private Acts of Tennessee*, 1935 (reg. sess.), Vol. II, chs. 599, 780; *Wisconsin Session Laws*, 1935, ch. 150. At least two Tennessee counties saw the repeal of existing statutes providing for purchasing agencies therein. *Private Acts of Tennessee*, 1935 (reg. sess.), Vol. I, ch. 129; *ibid.*, Vol. II, ch. 606.

fees collected by such officers be paid into the county treasury. Acting under authority of these amendments, the general assembly enacted legislation placing all or certain officers in several counties upon a salary basis.⁶⁸ In Texas, a constitutional amendment proposed by the legislature in its regular 1935 session and ratified by the voters in August of the same year requires that county officers in counties having a population of 20,000 or more shall be on a salary basis, and provides that in counties of less than 20,000 inhabitants the respective commissioners' courts shall determine whether county officials shall be compensated by fees or salaries. The amendment directed the legislature to provide legislation for carrying its provisions into effect, and a statute for that purpose was promptly enacted.⁶⁹

A constitutional amendment proposed and ratified in 1935 empowers the legislature of Alabama to regulate the compensation of tax assessors, tax collectors, probate judges, circuit clerks, sheriffs, and registers of chancery courts in the counties of Calhoun and Tuscaloosa, and to place such officers on a salary basis in lieu of fees. The proposed constitutional amendment in Pennsylvania providing for consolidation of Philadelphia county with the city of Philadelphia prohibits the use of the fee method of compensation by the consolidated city.⁷⁰

On the other hand, attempts to place fee officers on a salary basis were defeated in certain instances by vote of the people or by court decision. Thus, the voters of Alabama, in the 1936 election, defeated a proposed constitutional amendment which would have placed the tax assessor, tax collector, and probate judge of Limestone county on a salary basis;⁷¹ while special acts replacing fee-supported justices of the peace with salaried judges in Hamilton and Unicoi counties, Tennessee, were held invalid by the state supreme court.⁷²

⁶⁸ *Acts and Joint Resolutions of South Carolina*, 1935 (reg. sess.), nos. 17, 20, 62, 188, 255; *ibid.*, 1936, nos. 655, 680.

⁶⁹ *General and Special Laws of Texas*, 1935 (reg. sess.), Vol. II, p. 1235; *ibid.* (2nd spec. sess.), ch. 465; J. Alton Burdine, "Abolition of Fee System," *National Municipal Review*, Vol. XXV, pp. 242-243 (Apr., 1936). By specific exception in the amendment, county surveyors, public weighers, and notaries public continue on a fee basis.

⁷⁰ *General Laws of Alabama*, 1935, no. 549; *Laws of Pennsylvania*, 1935, p. 1365; George C. S. Benson, "State Constitutional Development in 1935," in this *Review*, Vol. XXX, pp. 275-279 (Apr., 1936). The Alabama amendment also authorizes consolidation of the enumerated offices.

⁷¹ Charles W. Edwards, "Consolidation of Offices Defeated," *National Municipal Review*, Vol. XXVI, pp. 145-146 (Mar., 1937).

⁷² *Private Acts of Tennessee*, 1935 (reg. sess.), Vol. I, chs. 213, 410; *State v. Murrell*, 169 Tenn. 688, 90 S.W. (2d) 945 (1936); *Gouge v. McInturf*, 169 Tenn. 378, 90 S.W. (2d) 753 (1936); *Gouge v. McInturf*, 170 Tenn. 72, 92 S.W. (2d) 198 (1936).

V. HOME RULE AND OPTIONAL CHARTERS

The framing of county home-rule charters and the adoption of alternative forms of government were checked by judicial decision in Ohio and Nebraska, respectively. Under the home-rule amendment adopted in 1933, four of Ohio's large urban counties—Cuyahoga (Cleveland), Hamilton (Cincinnati), Lucas (Toledo), and Mahoning (Youngstown)—voted on home-rule charters in November, 1935. Of the four, only that for Cuyahoga was approved by the voters, and the charter so approved was subsequently invalidated by the state supreme court in a decision which seems to strip the constitutional home-rule provision of most of its effectiveness. A proposal for the election of a new charter commission was submitted to the Cuyahoga county voters in the 1936 election, but was defeated.⁷³ In Nebraska, the optional statute of 1933 under which Douglas county (Omaha) had adopted the manager plan of government to take effect January 1, 1937, was invalidated by the state supreme court on the ground that a county manager is a public officer and that, under the constitution, all county officers must be elected.⁷⁴ Home-rule charters were recently voted upon and rejected by the electors of San Luis Obispo and Kern counties, California, a revision of the Butte county charter being similarly defeated.⁷⁵

Following the defeat, in the 1934 election, of a popularly-initiated amendment to the Michigan constitution which would have provided for county home rule, the legislature of that state proposed another home-rule amendment to be submitted to the voters in 1936. The defeat of this proposal in the 1936 election would seem to be a matter of little regret, since, as contrasted with the earlier proposal, it was of a thoroughly unsatisfactory nature, providing for no changes in county government which could not now be effected by statute.⁷⁶

Most progress in the direction of permitting counties to adopt modern forms of government was made, during the period under consideration, in New York. In its 1935 session, the legislature of that state enacted the so-called Buckley optional-charter law authorizing the adoption by popular vote of either of two alternative forms of county government.

⁷³ *State v. Krause*, 130 Ohio St. 455, 200 N.E. 512 (1936); R. C. Atkinson, "County Charter Elections in Ohio," *National Municipal Review*, Vol. XXIV, pp. 702-703 (Dec., 1935); P. W. Wager, note in *ibid.*, Vol. XXV, p. 743 (Dec., 1936). For a comprehensive discussion of the court decision, see Earl L. Shoup, "Judicial Abrogation of County Home Rule in Ohio," in this *Review*, Vol. XXX, pp. 540-546 (June, 1936).

⁷⁴ *State v. Tusa*, 180 Neb. 528, 265 N.W. 524 (1936).

⁷⁵ Charles Aikin, "Three Counties Reject Home Rule Charters," *National Municipal Review*, Vol. XXIV, pp. 537-539 (Oct., 1935).

⁷⁶ *Public Acts of Michigan*, 1935, p. 469; W. P. Lovett, "County Amendment Defeated," *National Municipal Review*, Vol. XXV, p. 742 (Dec., 1936).

One of these, designated the "county president" plan, is essentially an application to county government of the strong-mayor form of city government; the second, or "county manager," plan provides for an administrative head of the county government to be appointed by the board of supervisors. Under both plans, the board of supervisors remains as the policy-determining body of the county. The manager form of government provided by the Buckley law was adopted by the voters of Monroe county (Rochester) in the November election of 1935 and became effective on January 1, 1936.⁷⁷

In addition to enacting the Buckley law, the New York legislature in 1935 gave second legislative approval to a constitutional amendment directing the enactment of laws to provide alternative forms of government for counties outside New York City, and permitting the making of certain improvements in county government which had formerly been blocked by constitutional provisions.⁷⁸ Acting under authority of this amendment, which was approved by the voters in November, 1935, the state legislature in 1936 enacted the so-called Fearon-Parsons optional-charter law,⁷⁹ authorizing any county outside New York City to retain its existing form of government or to adopt any of five optional forms provided by the statute. These five optional forms consist of: (1) an elective county executive form; (2) an appointive county executive form with full administrative powers vested in the executive; (3) an appointive executive form under which the administrative powers of the executive are restricted by the requirement that all executive appointments be confirmed by the board of supervisors; (4) a "board of district supervisors" form under which the present board of supervisors will be replaced by a board of five, seven, or nine members (depending upon the population of the county) elected by districts; and (5) a board of supervisors form under which the existing form of governing board is retained but with additional powers of local legislation. It will be noted that only one of these plans—the fourth—permits the substitution of a small governing board for the present board of supervisors. Any one of the five alternative forms of government may be submitted to the county voters, upon proper petition, at a general election held in any odd-numbered year, the latter stipulation making impossible any action prior to 1937.

One definite accomplishment made possible by the recent amendment is already a matter of record in the form of the modern charter for Nassau county which was referred to the voters of that county by the regular legislative session of 1936, was approved by the voters in the November

⁷⁷ *Laws of New York*, 1935, ch. 948. See *supra*, "County and Town Executives."

⁷⁸ *Laws of New York*, 1935, p. 1909. The amendment was given its first legislative approval in a special session of 1934.

⁷⁹ *Laws of New York*, 1936 (reg. sess.), ch. 828.

election of that year, and will become effective on January 1, 1938.⁸⁰ The reforms provided by the new charter, which was drafted by the Consultant Service of the National Municipal League at the request of the Nassau County Commission on Governmental Revision, include "a county executive (elective), a modern budget system, centralized and modernized assessment of taxes, county-wide administration of health and welfare functions, and a district court with professional judges to replace the justices of the peace."⁸¹ The new charter has been sustained by the courts against the contention that it was invalid as constituting special legislation.⁸²

VI. INTERGOVERNMENTAL RELATIONS

State-Local Relations. The years 1935 and 1936 witnessed a further extension of state control over the activities of counties and townships, as well as the enactment of a number of statutes enjoining coöperation by the local units with state authorities in various matters. For the most part, the new laws provided for control of the administrative type, in most instances merely making new applications of the devices already well known in that field.

Annual financial reports to state authorities were required of counties in Maryland and of counties, first-class townships, and poor districts in Pennsylvania. Local governmental units in California were required to make reports on outstanding indebtedness to the state department of finance, and thenceforth to report new issues of bonds to that agency. Colorado amended her local-budget law to provide a procedure for compelling local governments to file their budgets with the state tax commission. In Alabama, Idaho, Kansas, New Hampshire, and Pennsylvania, state agencies were given authority to prescribe forms to be used by local units in auditing, accounting, reporting, and/or budgeting, Alabama also providing for a biennial audit of county records by a state division of departmental and county audits.⁸³ Moreover, the new public-welfare

⁸⁰ *Laws of New York*, 1936 (reg. sess.), ch. 879. Another charter, referred to the voters of Nassau county by the legislative session of 1935, had been rejected in the 1935 election. See *Laws of New York*, 1935, ch. 938; Alfred Douglas Olena, "A Home Rule Charter for Nassau County, New York," *National Municipal Review*, Vol. XXVI, pp. 82-87 (Feb., 1937).

⁸¹ Thomas H. Reed, "Nassau County Adopts a New Charter," *National Municipal Review*, Vol. XXV, p. 741 (Dec., 1936). See also Editorial Comment, *ibid.*, Vol. XXV, p. 312 (June, 1936).

⁸² *Burke v. Krug*, 291 N.Y.S. 897 (1936); *Matter of Burke v. Krug*, 272 N.Y. 575, 4 N.E. (2d) 744 (1936).

⁸³ *General Laws of Alabama*, 1935, nos. 26, 218, 300; *Statutes of California*, 1935, ch. 82; *Laws of Colorado*, 1935 (reg. sess.), ch. 158; *General Laws of Idaho*, 1935 (reg. sess.), ch. 80; *Kansas Session Laws*, 1935, ch. 275; *Laws of Maryland*, 1935, ch. 355; *Laws of New Hampshire*, 1935, ch. 9; *Laws of Pennsylvania*, 1935, nos.

laws⁸⁴ quite generally conferred upon the state welfare departments broad authority to prescribe forms for local welfare records and reports and to issue rules and regulations governing practices and procedures of local welfare offices.

State approval or review of the action of local authorities was provided for by various statutes. Louisiana appears to have been most productive of legislation of this type, new laws in that state requiring approval by the appropriate state agencies before parishes or other local units may borrow money, construct highways, or provide airports. In Indiana, all supplementary appropriations made by local governments after adoption of the regular budget must now be approved by the state board of tax commissioners. Wisconsin provided that disputes between counties relating to relief expenditures, which had previously been settled in the first instance by the courts, should thenceforth be settled by the state industrial commission, subject to appeal to the courts.⁸⁵ In conformity to requirements of the federal Social Security Act, most of the recently-enacted state statutes which provide for local administration of old-age pensions, mothers' pensions, and pensions for the blind authorize appeal to the state welfare department by persons denied assistance by the local authorities.

In several instances, state agencies were charged with the appointment or removal of local officers or employees, or with acting concurrently with local authorities in making such appointments or removals. Louisiana provided that the state civil service commission shall control the selection of appointive parish and municipal officers; that parish school boards may employ teachers only with the approval of a state school budget committee composed of the governor, state treasurer, and state superintendent of public education; and that deputy sheriffs may be dismissed, or have their duties or compensation changed, only with the approval of the state bureau of criminal identification and investigation. New Mexico provided that appointments of district health officers by district boards must have the approval of the state board of public welfare; while Alabama provided that license inspectors should be appointed by the governor in counties of over 150,000 inhabitants.⁸⁶ Several states, in providing

384, 386, 419. In Pennsylvania, state associations of local officers participate in the preparation of forms for use by the local units. See *supra*, "Organization of Local Officials."

⁸⁴ See footnote 7.

⁸⁵ *Laws of Indiana*, 1935, ch. 150; *Acts of Louisiana*, 1935 (2nd spec. sess.), no. 6; *ibid.*, 1935 (4th spec. sess.), no. 24; *ibid.*, 1936, no. 222; *Wisconsin Session Laws*, 1935, ch. 453.

⁸⁶ *General Laws of Alabama*, 1935, no. 265; *Acts of Louisiana*, 1935 (2nd spec. sess.), no. 25; *ibid.* (3rd spec. sess.), nos. 10, 21; *Laws of New Mexico*, 1935, ch. 131. Jefferson is the only Alabama county having a population of more than 150,000.

for local welfare agencies of various types, stipulated that the personnel of such agencies, in its entirety or in part, should be selected subject to the approval of designated state authorities.⁸⁷

The grant-in-aid continued to be used as a means of insuring minimum services by the local units and at the same time extending state supervision over the local governments. Alabama set up a new state "minimum-program fund" to assist counties and cities in maintaining a standard educational program and to aid in equalizing educational opportunities. The local school authorities, as a condition precedent to receipt of state aid, are required to levy all authorized local taxes for school purposes. On condition that the local units meet specified requirements with respect to financial participation, state grants to local governments were authorized in North Carolina for health purposes and in Virginia for relief. As indicated elsewhere, provisions for state grants for local welfare activities were common.⁸⁸

In addition to the statutes providing for state supervision and control over local government, several laws were passed authorizing local units to cooperate with state authorities in carrying on certain activities. Thus, Oklahoma counties were authorized to cooperate with the state conservation commission in checking and preventing soil erosion; the counties of Oregon were authorized to cooperate with state and federal agencies in exterminating injurious and disease-bearing rodents; counties and other subdivisions in Alabama were empowered to cooperate with the state armory commission in the construction of armories; two Minnesota statutes provided for cooperation between the state bureau of criminal apprehension and local law-enforcement officers; while the new statutes with respect to state and county planning agencies quite generally enjoined cooperation between the state and local authorities.⁸⁹

Federal-Local Relations. Inasmuch as the regulation of local government is, under the federal Constitution, in the hands of the respective states, there has been a tendency to ignore the growing list of contacts between the local units and the national government. Prior to the depression, contacts between national authorities and rural local governments were not numerous; but during the past few years, with financially

⁸⁷ *Acts of Arkansas*, 1935, p. 54; *Laws of Colorado*, 1936 (2nd spec. sess.), ch. 5; *Acts of Louisiana*, 1936, no. 14; *Laws of Maryland*, 1935, ch. 586; *Laws of North Dakota*, 1935, ch. 123; *Oregon Laws*, 1935 (spec. sess.), ch. 55; *Laws of South Dakota*, 1935, ch. 98; *Laws of Utah*, 1935, ch. 69; *Session Laws of Wyoming*, 1935, ch. 64.

⁸⁸ *General Laws of Alabama*, 1935, no. 295; *Public Laws and Resolutions of North Carolina*, 1935, ch. 142; *Acts of Virginia*, 1936 (reg. sess.), ch. 223. See *supra*, "Revenue and Taxation."

⁸⁹ *General Laws of Alabama*, 1935, no. 276; *Session Laws of Minnesota*, 1935 (reg. sess.), chs. 195, 197; *Session Laws of Oklahoma*, 1935, p. 343; *Oregon Laws*, 1935 (reg. sess.), ch. 259; *supra*, "Planning and Zoning."

embarrassed states and localities looking more and more to the central government for assistance, these contacts have increased in both number and significance. This fact is evidenced by the enactment during recent years of a large number of state statutes authorizing local governmental units to cooperate with the national authorities in various ways and to meet federal requirements for financial assistance.

Of the statutes of this character enacted during the biennium under consideration, several were in the nature of general enabling acts authorizing counties or other local units to construct public-works projects with the aid of federal funds and to enter into the necessary contracts with respect thereto.⁹⁰ Others authorized action with respect to particular matters. Thus, Mississippi and Washington authorized the creation of flood-control districts to cooperate with the federal government in flood-control projects; Montana provided that counties might convey to the United States for national forest purposes lands acquired for delinquent taxes, and might deed county-owned land to either the state or the national government for park purposes; Alabama authorized local agencies to contract with federal authorities concerning electrification; Idaho empowered counties to cooperate with federal agencies with respect to reclamation, drainage, and drought relief; while counties in North Carolina were authorized to aid and cooperate in the planning, construction, and operation of federal housing projects.⁹¹ An indirect relationship between the national and local governments is involved in the system of federal insurance of bank deposits. Under this scheme, the national government becomes the insurer of public as well as private funds deposited in banks, and some states have already authorized counties and other subdivisions to accept federal deposit insurance in lieu of other security for local funds.⁹²

A problem of adjusting national and local interests which promises to become of increasing significance occurs when the federal government, in the course of its resettlement and conservation activities, purchases large blocks of land and thereby removes such property from the local tax rolls. It is said, for instance, that Oregon's recently enacted county consolidation law had its inception in the distress of Jefferson county, which is located in the dry section of central Oregon and in which the federal

⁹⁰ *Acts and Resolves of Massachusetts*, 1935, ch. 404; *Session Laws of Minnesota*, 1935 (reg. sess.), ch. 125; *Laws of New Hampshire*, 1935, ch. 113; *Laws of South Dakota*, 1935, ch. 161; *Public Acts of Tennessee*, 1935 (spec. sess.), ch. 11; *Session Laws of Washington*, 1935, ch. 107.

⁹¹ *General Laws of Alabama*, 1935, no. 155; *General Laws of Idaho*, 1935 (1st spec. sess.), ch. 52; *Laws of Mississippi*, 1936 (reg. sess.), ch. 188; *Laws, Resolutions, and Memorials of Montana*, 1935, chs. 139, 150; *Public Laws and Resolutions of North Carolina*, 1935, ch. 408; *Session Laws of Washington*, 1935, ch. 160.

⁹² *Oregon Laws*, 1935 (reg. sess.), ch. 30; *Laws of Pennsylvania*, 1935, no. 47.

government had bought up a number of sub-marginal farms and removed the inhabitants;⁸³ and similar situations have been created in other states as a result of projects of the Resettlement Administration. That the federal government is not unmindful of this problem is indicated by a recommendation of President Roosevelt's Great Plains Committee that federal compensation to local governments, through the respective states, be provided in cases where acquisition of land by the federal government results in a shrinkage of the local tax base.⁸⁴ Moreover, provisions along analogous lines have already been incorporated in some federal statutes such as the Taylor Grazing Act providing for the withdrawal of certain grass lands from homestead entry and the leasing for grazing purposes of the lands so withdrawn. According to the terms of the Grazing Act, one-half of the amount received from grazing permits in any grazing district is to be paid annually to the state concerned, "to be expended as the state legislature may prescribe for the benefit of the county or counties in which the grazing district is situated."⁸⁵ It would seem that some such provision for a subsidy to the local units offers the most feasible alternative to geographic consolidation in instances where federal purchases reduce the tax base to a point where it will no longer support the necessary local services.⁸⁶

⁸³ Charles McKinley, "Oregon Permits County Consolidation," *National Municipal Review*, Vol. XXIV, p. 352 (June, 1935).

⁸⁴ *The Future of the Great Plains* (Report of the Great Plains Committee), House Doc. 144, 75th Cong., 1st Sess. (Feb. 10, 1937), pp. 78-79.

⁸⁵ 48 *Stat. at. L.* 1269. See *supra*, "Revenue and Taxation."

⁸⁶ For some constitutional aspects of the problem involved in such purchases, see D.S.M., "State Taxation of Federal 'Proprietary' Instrumentalities," *Temple Law Quarterly*, Vol. XI, pp. 383-395 (Apr., 1937).

FOREIGN GOVERNMENTS AND POLITICS

Governmental and Party Leaders in Fascist Italy.* Study of the governmental and party leaders of Italy may contribute to our understanding of the Fascist state, whether we are concerned with public law, comparative government, or comparative politics. The application of the rules of law by any public law agency is affected by the characteristics of those who constitute the agency. Agencies of comparable legal authority exercise their discretion differently when they are differently related to the social context in which they operate. Whatever affects the relative strength of the groups with which an agency is affiliated affects the relative strength of the agency. Hence it is important to ascertain the class, skill, personality, and attitude characteristics of officials in relation to the composition of the community as a whole.

The present analysis of Fascist Italy therefore begins by classifying the agencies of the Italian state into those which, when examined from the viewpoint of public law, are "rising," and those which are "falling" (or at all events not rising). We shall eliminate from consideration those agencies consisting of a single individual, like the king and the chief of the government. Among the pre-Fascist organs of government, two have risen: the cabinet and the prefects. The cabinet has attained more freedom from the control of Parliament, and widened its legislative scope. The prefects have more authority, including direct control over local government. The following organs of pre-Fascist Italy have fallen (or not risen): Senate, Chamber, ministers of state, and *podestà*. All of the new agencies introduced by the Fascists are obviously "rising" (when compared with pre-Fascist institutions).¹

I

Much of the material assembled in this study of governmental and party élites² is on public record. The communiqués of the *Ufficio Stampa* (later the Under-Ministry and finally Ministry for the Press and Propaganda) are usually short and matter of fact. The editorial comment which follows a biography often yields more information than the biography, because the official news stresses the relationship between the individual and his new job, and the editorial eulogy often provides more intimate

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¹ For basic distinctions, reference may be made to Santi Romano, *Corse di Diritto amministrativo* (1931), and Oreste Ranalletti, *Elementi di Diritto Pubblico Italiano* (1933).

² The term *élite* is used in no invidious or romantic sense. It designates those who exercise the most influence in a given situation in which influence is appraised, for purposes of analysis, in a determinate way.

TABLE 1
CLASS ANALYSIS

<i>O = origin</i> <i>P = present status</i>	<i>Number of Cases</i>	<i>Proletariat</i>		<i>Lesser Bour- geoisie</i>	<i>Plutoc- racy</i>	<i>Aristoc- racy</i>
<i>Rising Agencies</i>						
Cabinet.....	24	O	3	12	7	2
		P	0	0	20	4
Grand Council.....	9	O	0	7	1	1
		P	0	0	7	2
Party Executive Com..	7	O	0	6	0	1
		P	0	2	4	1
Provincial Party Sec...	66	O	3	50	9	4
		P	0	20	42	4
Chief Exec. Nat'l Unions and Associations....	12	O	0	10	1	1
		P	0	0	11	1
Prov. Secs. Union Agric. Workers.....	53	O	0	53	0	0
		P	0	53	0	0
Prov. Secs. Union In- dustrial Workers....	51	O	0	51	0	0
		P	0	46	5	0
Prov. Secs. Union Com- mercial Workers.....	43	O	4	39	0	0
		P	0	43	0	0
Prov. Secs. Employers Associations.....	43	O	0	26	12	5
		P	0	4	34	5
<i>Declining Agencies</i>						
Senate.....	190	O	3	87	54	46
		P	0	60	78	52
Chamber.....	187	O	16	93	50	28
		P	0	95	64	28
Ministers of State....	16	O	0	6	3	7
		P	0	1	7	8
Podestá.....	38	O	3	5	18	12
		P	0	3	23	12

details. The Italian *Who's Who* (*Chi'è? Dizionario degli Italiani d'oggi*) is more devoted to literary than to political figures. A special dictionary concerned wholly with politicians (*La Nazione Operante*, Edoardo Savinio, Milan, 1934) contains three thousand biographies and is indispensable for the minor hierarchies. Supplementary details have been gleaned from local publications and interviews.

Critical comparison of sources has been relied upon to reduce the distortions which arise from tendencies to reconstruct biography to fit the values of the new order of things. How far this revision may go is shown by some sporadic cases of politicians who moved their birthplace closer to the cradle of Fascism and copied the encomiums appropriate to Romagna. No biography of Mussolini forgets to play on the Romagna and the Romagnolo, for popular tradition has it that Romagna is the country of sunshine, wheat, and wine, and the Romagnolo are bloody, fierce, and picturesque.³

Table 1 shows the number of cases tabulated in this investigation, and the data relating to class and skill. The number of cases reported does not necessarily correspond to the number of offices, since no person has been counted twice. He has been assigned to his most important office. *Il Duce* has not been included. In order to emphasize the more active elements in Parliament, the whole membership has not been studied. The 190 senators who have taken the most active part in the senatorial sessions since 1929 are included, and the 187 deputies ratified in the plebiscites of 1929 and 1934 are reported. In general, the data depict the situation prior to the Ethiopian war.

For purposes of this investigation, four terms have been used to designate class origins and present status. Aristocracy includes persons from families with titles of nobility and persons who have acquired titles in their own right (Fascist and pre-Fascist). Plutocracy covers persons enjoying high incomes. When the individual is among the wealthy few in his region, he is included among the plutocracy, although he may not qualify from the standpoint of the nation as a whole. About 15 per cent of those called plutocratic in this list would be excluded if we were to classify them according to the national income pyramid. The lesser bourgeoisie takes in everyone who falls short of inclusion in the plutocracy, but who stands outside the proletariat. Skilled workers, professional persons of middle or low income, independent business men, and executives of middle or low income are thus considered lesser bourgeoisie. The proletariat includes unskilled workers in industry and agriculture. At least 95 per cent of the aristocracy are sufficiently wealthy to be classified

³ A representative biography in this vein is *L'Umo Nuovo* by Beltramelli (Mondadori, Milan).

TABLE 2—Continued

		1	2	3	4	5	6	7	8	9	10	11
<i>Declining Agencies</i>												
Senate.....	<i>O</i>		8	4	10	20	32	10	15	18	73	
	<i>E</i>		(Same)									
	<i>P</i>		(Same)									
Chamber.....	<i>O</i>		(Missing)									
	<i>E</i>	12	17	2	8	27	20	19	18	23	41	
	<i>P</i>		(Same)									
Ministers of State.....	<i>O</i>		1			3	7		1	9	3	
	<i>E</i>					3	7		1	2	3	
	<i>P</i>		(Same)									
Podestà.....	<i>O</i>		3	1	2	5	14	3	3	1	6	
	<i>E</i>		(Same)									
	<i>P</i>		(Same)									

with the plutocracy, although double classification is not used in this report.

Table 2 exhibits the data about skills, which are defined as teachable and learnable operations. Skills are classified into those acquired and exercised before entry into politics, skills bringing the individual into politics, and present skills. In each of these sub-categories, the principal skill is recorded and other skills are omitted. Most of the categories are self-explanatory. Skill in ceremony is perhaps the most novel. It includes persons who are masters of etiquette, like aristocrats or retired army officers and high officials. It also includes individuals who have high symbolic value because they stand for some traditional distinction with which the new régime desires to associate itself (like descendants of illustrious personages). A third and smaller sub-category refers to individuals who, having attained eminence (like a famous scientist or engineer), are attached to some official agency as a symbolic gesture. Bargaining is a distinctive skill of those engaged in business; organizing refers to the coördination of non-profit-making activities, public or private. Propaganda specialists include newspaper men, personnel of information offices, and teachers of controversial subjects. The term "attorneys" includes bar and bench.

II

The outstanding contrast between rising and declining agencies is the lesser bourgeois origin of the personnel of the rising agencies. Three-fourths of the provincial party secretaries, and an overwhelming propor-

tion of all other Fascist party agencies, come from the lesser bourgeoisie. Half the cabinet is from this social formation. Less than a seventh of the podestà, a declining agency, spring from the lesser bourgeoisie, and only a little over a third of the ministers of state. Half of the Senate and Chamber cases derive from this class.

There is evidence of a slight recovery of aristocracy under Fascism. Table 3 gives the percentage of deputies in the Chamber who were aristocrats:

TABLE 3
ARISTOCRATS IN THE CHAMBER OF DEPUTIES¹

Year	Per cent	Year	Per cent
1861	37.6	1919	5.7
1904	19.5	1921	5.4
1909	18.1	1924	7.5*
1913	15.3	1929	9.0**

¹ Ubaldo Baldi-Papini, "Le condizioni presenti della Nobilità italiana," *La Nobilità della Stirpe*, II, 1 (1932), p. 141.

* First election after the March on Rome.

** First plebiscite.

Fifteen per cent of our sample of the Chamber elected in the plebiscite of 1934 are aristocrats. The new régime has conferred titles of nobility sparingly, although somewhat more freely than under the Liberal order. Biographers carefully point out (particularly when the aristocracy is old or the title ranks high) that the subject is a nobleman who, "instead of . . ." pursuing a life of leisure and sport, has devoted himself to public service. The merit of activity of this kind is always underlined for one of aristocratic lineage.

Leaders of proletarian origin are sporadically found, which continues the situation under the pre-Fascist régimes.⁴ The extent to which the lesser bourgeoisie contributes to the present plutocracy exhibits the opportunities for climbing which have been afforded by the rising agencies.

To choose, almost at random, typical careers of those who have risen from the lesser bourgeoisie to the new plutocracy:

Renato Ricci, born in 1896 in Carrara; war volunteer; member of Fascist party since 1919; organized a local of the party and rose to be vice-secretary of the national party; initiator and organizer of the Fascist youth movement; leader of governmentalized sport activities; became under-secretary of education, thus controlling physical education all over Italy; member of the cabinet.

⁴ Roberto Michels, *Storia critica del movimento socialista italiano* (Florence, 1921), Chap. 8.

Rino Parenti, born in 1895, in Milan; non-commissioned officer during the war; became Fascist in 1919, participating in local squadrist action; constantly held local party jobs; federal secretary for Milan.

Cases typical of other careers:

Sampoli Aldo comes from a lesser bourgeois family and, although a federal party secretary for Siena, remains lesser bourgeois. Born in 1898 in Siena; lieutenant during the War; joined party in 1921; held jobs in local public institutions.

Ugo Cavallero comes from a very modest family and was made a count in 1928; born in 1880 in Casale, province of Asti; entered military academy and fought during the War; in 1918, became general; after War, became director of the Ansaldo of Genoa, an iron and steel concern manufacturing armament; appointed senator in 1926, and then called to the Ministry of War. When in 1928 he left the ministry, he was named count.

Pompeo Cattaneo, born in 1885 into a wealthy family of Pavia; decorated with a war cross; joined party in 1921, and remained in local politics; cheese manufacturer and secretary of the provincial employers' association for commerce.

Marquis Mario Laureati, born in Ascoli-Piceno in 1867, of the most outstanding noble family of the province; entered military school and fought in the first Ethiopian, Turkish, and World Wars, retiring as general; joined party in 1921; became secretary of employers' association for agriculture.

Edmondo Rossoni, born in 1882 in Ferrara into proletarian family; emigrated to United States, where he worked as a track laborer for railroads in Pittsburgh, Chicago, and New York; prominent in the radical labor movement among Italians in America, he later became an exponent of socialism with nationalistic coloring; organized the labor unions on a national scale under the Fascist régime; an exponent of the syndicalist versus the corporative tendencies; was the *duce* of the labor unions and publisher of *Lavoro Fascista*; later under-secretary of the interior and then secretary of agriculture; draws salaries from the *Banca del Lavoro*, from several social insurance institutions, and from the sea salt corporation of Italian Somaliland.

Isidoro Martinelli, born in 1897 into a proletarian family of Brescia; fought in the War as a private; worked in a bakery and organized bakery workers; as a syndicalist, joined the Fascist party in 1923; became provincial secretary of the union of commercial workers (modest income).

III

Possibly the outstanding revelation of the skill analysis is the relatively narrow recruiting base of the rising agencies. The personnel either has no original skill or wields a skill very closely connected with the functions performed in the party or governmental hierarchy. The older agencies, in addition to skill in organization, are recruited from a wider variety of specialties. In a sense, the new personnel made their own jobs through the

organization of the party and the seizure of governmental authority. The new agencies are thus staffed by a highly specialized governing group.

Conspicuous, of course, is the importance of informal violence as a means of entering politics. Observe, for a striking instance, the provincial party secretaries, twenty-nine of whom particularly distinguished themselves in the squadrist phase of Fascism. Most of these had served in the War, and many of them had become officers, rising to a social status higher than they had enjoyed before. After the War, they were unable to live up to the new standard of life which they had come to demand; hence the bitter resentment from which direct action sprang.

Most of these men no longer have to do mainly with specialized violence, although each of the provincial party secretaries is head of the Fascist youth organization in his province. Civil administrative tasks absorb most of their energies.

As the internal organization of the centralized régime has consolidated, careers have become more regularized (which is to say, bureaucratized). There is a growing tendency for persons to be appointed federal secretary in provinces where they have never been active in politics, thus gradually transforming the party itself into a true bureaucracy. Under such conditions, there is less possibility that the central party leadership can be challenged effectively by local party machines. Among the provincial party secretaries, no instances are to be found of persons who joined the party after 1924; most of them were active before the March on Rome. The future of this privileged group is determined chiefly by the central party figures.

There are now few examples to be found of new men who enter party or governmental positions without an original skill of some kind. A university degree has become increasingly necessary for the corporative appointments. Some of the agencies conduct rigid competitive examinations. These offices are not civil service positions, though the distinction has little practical significance. Somewhat less certainty of tenure is compensated by higher emoluments and prospects of more rapid advancement.

It should not be ignored that the older bureaucratic agencies have been infiltrated by persons who owe their careers to Fascist party service. In 1928, the diplomatic and consular services were flooded with party men (the *ventottisti*), such as Cantalupo, Bastianini, Mazzolini, and several consuls-general. Among the first-class prefects, we find 22 (of 49) appointed from outside the administration. Nine of these have records of vigorous squadristic action (Foschi, Tamburini, Uccelli, for example). Most of the high bureaucracy in the Ministry of Corporations originated outside the government service.

Skill in ceremony is very prominent in the case of the *podestà*, a de-

clining agency. The decline of local government in Italy has meant an enlarging sphere for the prefects and the provincial party secretaries. As a compensation for the loss of effective local control, the *podestà* have been chosen from individuals of local eminence. Both the Senate and the ministers of state show a substantial proportion of ceremonial personages. It will be noticed that the Chamber has 17 engineers. No doubt it would be consistent with our analysis of ceremony to include all of these in the ceremonial category. They owe their preferment to their symbolic significance in the ideology of Fascism, which has glorified the technical man at the expense of the "windbags" of the democratic parliament. Despite all the emphasis, however, it is interesting to notice that the engineers are few and far between in the most effective agencies. They are still footmen of the chariot of state, not chauffeurs.

Despite the diatribes which have frequently been directed against attorneys, their number has not declined and their rôle in the state appears to be about what it was before. The number of lawyers is now restricted, but the number of students taking the bar examinations is very large. The law schools actually train most of their men, not for the private practice of law, but for posts in the government. In this connection, it may be observed also that the professors of law, philosophy, and social science have been reduced to their pedagogical function. Before the Fascist revolution, the professors contributed a very high proportion of political leaders to Italy; indeed, 85 per cent of all of the prime ministers were professors. Thus far, professors (of law and education, for example) have been named only to specialized ministries.

Although journalists have been frequently and fervently praised, they have been practically bureaucratized by the establishment of the Ministry of Propaganda and the Syndicate of Journalists. Editorships of important newspapers have occasionally been treated as party spoils.

The importance of skill in bargaining has declined with the general decline in the amount of business left in private hands. The manual and the semi-skills contribute infinitesimally to the leadership of government and party. The 12 members of the Chamber who fall in this category are chiefly of ceremonial significance.

Representative careers include the following:

Renzo Chierici, born in 1895 in Reggio, Emilia; lesser bourgeois family; lieutenant during the War; joined party in 1919; went to Fiume with D'Annunzio, later identifying himself with the Balbo group; perhaps the best known squadrist in Italy; established himself in Ferrara, becoming provincial party secretary.

Giuseppe Avenanti, born in 1898 at Arcevia, province of Ancona, of modest bourgeois parents; volunteered in the War and became lieutenant; joined party in 1919, engaging in local squadrist and journalistic activity;

became provincial party secretary for Ancona; transferred as party secretary to Zara (apparently on account of shady activities); later transferred as federal secretary to Gorizia.

Renzo Morigi, born in Ravenna in 1895; corporal during the War; comes from fairly wealthy landowning family; joined party in 1919, and led squadrist action throughout region of Emilia; very proud of his Romagnolo descent; world's pistol-shooting champion, Los Angeles Olympic Games, 1932; provincial secretary of Ravenna and actual boss (*ras*); several times connected with central committee of the national party.

Agostino Podestá, born in Novi, province of Alessandria, in 1906; parents were of the lesser bourgeoisie; law student; joined party in 1920; participated in squadrist activity; later organized university students; took J. D. and became provincial party secretary for Verona.

Paolo Boldrin, born in Padua in 1906 of lesser bourgeois family; joined party in 1922; shared squadrist activity and organized students; took Ph.D. later and became provincial party secretary for Padua; docent in public law, University of Padua, and author of scholarly publications.

Vittorio Casaccio, born in 1896, in Ragusa, of modest bourgeois parents; lieutenant during War; Nationalist until 1923, when Nationalists merged with Fascists; professor and dean in local college; organized local section of the Fascio; holds a doctorate in literature; provincial party secretary for Ragusa.

Epaminonda Pasella, born in 1875 in Pombino; modest family origins; engineer in royal navy, serving in this capacity during the War; joined party in 1919, organizing seamen's union, coöperating with Costanzo Ciano; provincial party secretary for the island of Elba.

Nino Vicari, born in Pesaro in 1894, of lesser bourgeois family; captain in the army during the War; later employed in postal service; active in propaganda and newspaper work, and made honorary member of the party in 1923; provincial party secretary for Parma.

Francesco Cortiglioni, born in Pesaro in 1898, of rather well-to-do family; served in war as lieutenant; later engaged in family wholesale grocery business; joined party in 1924; provincial party secretary for Pesaro.

Rodolfo Vagliasindi, baron of Randazzo, born in 1887 at family seat at Randazzo, province of Catania; served as captain in the War; as Nationalist, took part in local politics; joined Fascist party in 1921; comes from family of wealthy landowners and is himself actively engaged in agriculture; took a doctorate in chemistry and has published scientific contributions; provincial party secretary for Catania.

Prince Michele Spadafora, born in 1874 in Palermo of one of the wealthiest and most noble families of Sicily; took doctorate in jurisprudence; joined Fascist party in 1924; podestá of Palermo.

Count Pier-Ludovico Occhini, born in 1874 in Arezzo; wealthy landowning and noble family; served in War as officer attached to propaganda

services; Nationalist until 1919, when joined Fascist party; holds doctorate in literature; contributor to and editor of several art reviews; aesthete and poet of the D'Annunzio school; interested in local history and art; podestà of Arezzo.

Guglielmo Marconi, born in Bologna in 1874; father, Giuseppe Marconi, mother née Annie Jameson; family wealthy; passed early life in Italy and England; early experiments worked out on his family estate, Pontecchio, and in England where first successful results were obtained; aided by both Italian and English governments; recipient of several honorary degrees and Nobel Prize, 1909; senator, 1914; delegate to Versailles Peace Conference, 1919; 1928, named president of National Research Council; 1929 named Marquis; September, 1930, president of the Royal Academy and member of Fascist Grand Council.

Alessandro Mazzucotelli, born of poor parents in Lodi in 1865; began as a blacksmith's helper; became independent iron worker; established himself in a country house near Milan; interested in popular education and inaugurated the biennial exposition of decorative arts in Monza; has been appointed commissar of the arts for Milan and elected a member of the Chamber of Deputies; has attained international renown in his craft.

Among the less readily defined skills which have been the basis of successful careers in the Fascist state is skill in "fixing." The fixer is a negotiator who enhances his private income by exercising, or seeming to exercise, governmental and party influence. He may be put on the board of directors of a corporation in the expectation that he will prevent the government or the party from making trouble for the corporation; he may be put on the board at the direct initiative of the political leaders themselves.

The fixer is prominent in Italy because monopoly has almost, but not quite, supplanted competition, and all organized hierarchies are not quite coordinated in a totalitarian unity. The fixer is not a simple broker who brings persons of equal bargaining power together to make a deal according to publicly understood rules. He is the go-between when the parties to an arrangement must consider many other matters than simple profit. He plays a part when a resort to violence or to coercive pressure may occur at different stages of the transaction. He handles affairs which would subject the parties to obloquy if publicly exposed.

Fixers tend to stabilize the existing state of tension between private and public hierarchies by building up vested interests in existing ambiguities. Owing to the confidential nature of the transactions mediated by the fixers, it is impossible to arrive at a satisfactory objective estimate of the relative importance of this skill. It is plain, however, that politicians of the second and third rank very commonly trade on their supposed power. This applies particularly to the members of the rather innocuous Chamber of Deputies and of some of the unions and associa-

tions. Owing to the great centralization of the party and government, the fixer functions as a go-between who seeks to adjust local to central interests. The growth of the newly rich members of the Fascist party is often to be attributed to income derived from fixing.

Here are a few examples:

X. A modest lawyer in an important industrial center; a brother occupies a high position in the party and the government; hence he has been generally assumed to exercise a considerable degree of influence; by using the name of his brother, he has been able to settle controversies, often very delicate and important, between unions and associations, industrial firms and banks.

Y is a corporation lawyer who has a fairly high rank in the party and the government; through his political reputation and connections, he settles a great many cases out of court, cases which are referred to him solely because he is important.

Z was a fairly prominent industrialist who felt apprehensive for the security of his business; at the beginning, was not sympathetic with Fascism, but joined the party after 1925 in order to protect himself; became very active in politics, financing his own campaigns; having attained some prestige in politics, he used his position not only to protect his business but to extend his connections; corporations appointed him to their boards of directors, and he extended the range of his operations on a national scale.

IV

Another important aspect of governmental and party leadership is the degree of ideological incorporation in Fascism. To some extent, this can be shown by studying the length of time that the members of different agencies have been identified with the Fascist party, and the nature of their previous party affiliations. By Fascists *della prima ora* (from the first hours), we mean those who joined the party before the March on Rome in 1922, and had no previous party connections. The Nationalists supplied many members of the Fascist party before March, 1923, when the older party officially amalgamated with the Fascists. Some Liberals enlisted under the emblem of Fascism before October, 1922. (The date, August, 1922, is taken for the northern provinces; this marks the successful breaking up of the general strike in these provinces.) The Liberals were the right wing of the old Parliament (Monarchists, Constitutionals, Liberals, Conservatives, Democrats). Some of them passed over to Fascism between the March on Rome and the establishment of the dictatorship, January 3, 1925, which followed the Matteotti crisis. Some joined afterwards, when adherence to the Fascist party had become practically compulsory.

The members of the Popular (Socialist-Catholic) party who went over to Fascism can be grouped into the three periods used for the Liberals.

The same subdivisions likewise apply to the Socialistic groups (Syndicalists, Official Socialists, Reformists, Maximalists, Communists).

Table 3 is constructed to show these differences.

TABLE 3
PARTY ATTITUDES

	1	2a	2b	3a	3b	3c	4a	4b	4c	5a	5b	5c
1. Fascisti della prima ora, no previous affiliations.												
2. Nationalists												
a. Fascist before March, 1923.												
b. Fascist after March, 1923.												
3. Liberals												
a. Fascist before October, 1922.												
b. Fascist between October, 1922, and January 3, 1925.												
c. Fascist after January 3, 1925.												
4. Popular												
(Same subdivisions as above)												
5. Socialistic groups												
(Same subdivisions as above)												
Rising Agencies												
Cabinet.....	6	1	3	3						6		
Grand Council.....	6		1	1								
Party Executive.....	6									1		
Pr. Pty. Secretaries.....	46	2	4		1							
Chief Ex. Nat'l Unions and Associations.....	3	1	2	1		1				4		
Declining Agencies												
Chamber.....	113	3	9	5	13	33		2	3	6		
Ministers.....	1	1	1		3	6						
Podesta'.....	7	4	2		12	3		5				

Note: Unaccounted for: Cabinet 5; Provincial Party Secretaries, 13; Ministers of State, 4; Podesta', 5 with possible Popular affiliations.

The declining agencies show the most laggards in affiliating themselves with the new and ultimately successful party. In rising as well as declining agencies, there are some examples of former Socialists who went through the same transition as Mussolini himself. In all cases, the change was made before the March on Rome. Ex-Socialist members of the cabinet include Razza (d. August 8, 1935), Rossoni, Benni, Tassinari, Cobolli, and Lantini. An ex-Socialist member of the executive committee of the party is Marinelli, who was a bookkeeper on the *Popolo d'Italia* from its founding in 1914. Chief executives of national unions and associations include Barni, Ciardi, Pala (socialistic leanings), Racheli. These four were trade union organizers. Members of the Chamber of Deputies include Bolzon, Ciarlantini, Lanfranconi, Malusardi, Orano, and Paoloni.

The Italian Senate had practically no members of socialistic groups even before Fascism. More than half of the Senate was changed in 1922, and the new senators, if not party members, are at least in agreement with the régime. At least 23 of the 190 senators in our sample were formerly connected with the *Partito Popolare*, or were prominently identified with pro-clerical organizations. Five senators are ex-Socialists (Rosini was a trade union organizer; Professor Achille Loria introduced historical materialism into academic circles). No more than 10 senators can be identified as *Fascisti della prima ora*. Fascism glorifies youth, and the widespread recognition that the Senate is a declining, decorative post for old men means that appointment to it has been more resented than sought after by active leaders.

In considering the ideological characteristics of Fascism, it is of interest to discover the extent to which the party is recruited from the nation as a whole, or from particular regions. The higher party councils give extraordinary prominence to persons from Bologna and nearby provinces: Grandi, Manaresi, Biagi, Oviglio (Bologna); Balbo, Rossoni (Ferrara); and the *Duce* (Forlì). During the formative years of Fascism, this region was the most active scene. The social structure of the area reveals some significant features. Some cities provided employment for urban proletarians; these cities were situated close to agricultural regions which depended upon city factories to process their products (sugar beets, hemp). In the production of these commodities, use was made of a large body of unskilled casual laborers (*braccianti*). Workers, both urban and rural, were organized, and the post-war years saw the high-water mark of union activity. The lesser bourgeoisie, except the section directly connected with the unions, were alienated by the dislocation of public services through frequent strikes, and by the improving status of the manual toilers. Small tradesmen were exposed to the ever-sharpening competition of the coöperatives, which were supported by the unions. Some degree of social disorganization was endemic in this region; illegitimacy rates, for example, were higher than anywhere else in Italy. The refineries in Ferrara were operated by corporations which were not locally owned; the city was constantly losing members of the rising bourgeoisie to other centers.

The farther down one goes in the party and governmental hierarchy, the more completely does the personnel become representative of the nation as a whole. Indeed, many persons are advanced chiefly because they are identified with localities rather than for conspicuous party service. The most striking cases are from Sardinia or southern Italy in general. In such instances, special emphasis is put on the local attachment.

V

The data assembled here about the governmental and party leaders of Italy refine in some degree our picture of Italian, and indeed of world, developments. By comparing the rising and the declining agencies of Italian public law, we have ascertained the degree to which certain social formations are becoming more or less influential. Outstanding, of course, is the extensive contribution made by the lesser bourgeoisie to leadership in the state. Equally plain, however, is the extent to which a section of the lesser bourgeoisie rises to a plutocratic level of income, thus establishing vested interests which are in many respects contradictory to the logical development of a lesser bourgeois polity.

In terms of skill, the rising agencies exhibit the relative predominance of those who are devoted to the arts of government and politics in the narrowest possible sense. There are found many who owe their entire career to skill in violence, and who had no antecedent skill before their entry into politics. Party organization and party propaganda, with no previous skill acquisition, was the foundation of other careers. With the consolidation of the new régime, preliminary technical training assumes greater importance as the bureaucratizing tendencies of party and government manifest themselves. Among the less formalized skills, skill in fixing plays a prominent rôle. Totalitarian patterns of organization are not yet crystallized; hence private and public hierarchies continue in unstable relationship to one another. The fixers capitalize existing insecurities and develop strong vested interests in preserving present ambiguities.

The ideological integration of the state around the symbols of a single party has gone forward with the broadening local basis of party and government. The association of the older aristocratic and plutocratic formations with the activistic section of the lesser bourgeoisie has tended to conserve older values, and to militate against the emergence of distinctive practices.

The data here summarized are but a meager fraction of all that one might desire for developmental interpretation of political events. The *lacunae* are even more apparent when considered from the viewpoint of theories of political equilibrium. The facts given have not been related to many facts about the circumstances in which transformations occurred in Italy. Nor have they been presented in relation to an explicit description of the social structure of Italy. They do, however, constitute a step on the way toward relating public law agencies organized in particular ways to the social contexts in which they operate. The social formations have been plainly described with whose future the legislative and policy agencies of the Italian state are intertwined. Whatever affects the atti-

tudes or the strength of these formations will affect the discretion and potency of the organs of government and party.

HAROLD D. LASSWELL AND RENZO SERENO.

University of Chicago.

Ministers of the Crown and the British Constitution. Notwithstanding the vital importance of the cabinet, it has been one of the anomalies of British government that this institution has heretofore been unknown to English constitutional law. Writers have said correctly that "neither Parliament nor the courts have provided for the cabinet and the prime minister. The whole system of cabinet government is founded not on laws but on practices . . ."¹ However, this view can no longer be held. In the session of Parliament concluded recently, an act was passed which laid down new principles pertaining to the executive. The cabinet, the prime minister, and the ministers of the crown have at last been recognized by statute and have been given a status in British constitutional law.²

The Ministers of the Crown Act, which was introduced in the House of Commons on March 23, 1937, consists of 12 clauses, or sections, supplemented by four schedules.³ The act regulates the salaries of certain administrative offices; it provides for the payment of additional salaries to members of the cabinet whose salaries are less than £5,000 a year; it provides for the salary and for the pension of the prime minister; it provides a salary for the leader of the Opposition; and it clarifies the capacity of administrative officers to sit and vote in Parliament.

The act states that £5,000 is to be the annual salary payable to the Chancellor of the Exchequer, the eight Secretaries of State, the First Lord of the Admiralty, the President of the Board of Trade, the Minister of Agriculture and Fisheries, the President of the Board of Education, the Minister of Health, the Minister of Labor, the Minister of Transport, and the Minister for the Coördination of Defense.⁴ An annual salary of £3,000 is made payable to the Lord President of the Council, the Lord Privy Seal, the Postmaster-General, and the First Commissioner of

¹ W. I. Jennings, *Cabinet Government* (New York, 1936), p. 1. Cf. W. R. Anson, *Law and Custom of the Constitution*, rev. by A. B. Keith (Oxford, 1935), pp. 12-13; also statement of Sir John Simon before the House of Commons on April 12, 1937 (*Parliamentary Debates*, Vol. 322).

² *Ministers of the Crown Act, 1937. I Edw. 8 & 1 Geo. 6.*

³ *Parl. Debts.*, Vol. 321. The bill was based upon recommendation of select committees which reported in 1920 and 1930. See *Parl. Debts.*, Vol. 322, c. 639. House of Commons.

⁴ *Ministers of the Crown Act, 1937, clause 1 and part I of schedule 1.* These salaries and others mentioned in the act are subject to other provisions of the act.

Works.⁵ The Minister of Pensions is to receive £2,000 a year.⁶ Subject to provisions of the act, parliamentary under-secretaries are to be paid salaries ranging from a maximum of £3,000 for the Parliamentary Secretary to the Treasury to a minimum of £1,200 for the Assistant Postmaster-General.⁷ Junior Lords of the Treasury are to receive £1,000.⁸

Clause two of the act places limitations upon the number of persons who may receive salaries for holding certain offices. The number of secretaries of state may not exceed eight. The parliamentary under-secretaries in the case of the Treasury, the Foreign Office, the War Office, and the Admiralty are not to exceed two. For the Board of Trade, they are not to exceed three, including the Secretary for Mines and the Secretary of the Department of Overseas Trade. For the Air Ministry, the Board of Education, the Burma Office, the Colonial Office, the Dominions Office, the Home Office, the India Office, the Ministry of Agriculture and Fisheries, the Ministry of Health, the Ministry of Labor, the Ministry of Transport, the Scottish Office, and the Post Office, they may not exceed one. It is provided also that no more than five Junior Lords of the Treasury may draw salaries.

As stipulated by the act, membership in the cabinet will now carry with it a salary of £5,000, subject to the provisions of the act. Clause three states that ministers of the crown named in the act "if and so long as . . . a member of the cabinet" are to be paid that figure. If necessary, an additional sum will be paid which, together with the salary payable in respect of an office held, will amount to £5,000.⁹ Those persons who are to be of cabinet rank are now to be designated by the publication in the

⁵ *Clause 1 and schedule 1, part II.*

⁶ *Clause 1 and schedule 1, part III.*

⁷ *Clause 1 and schedule 2* provide for salaries as follows: Parliamentary Secretary to the Treasury, £3,000; Financial Secretary to the Treasury, Secretary for Mines, and Secretary of the Department of Overseas Trade, £2,000; parliamentary under-secretaries to the Admiralty, Air Ministry, Board of Education, Board of Trade, Burma Office, Colonial Office, Dominions Office, Foreign Office, Home Office, India Office, Ministry of Agriculture and Fisheries, Ministry of Health, Ministry of Labor, Ministry of Transport, Scottish Office, and the War Office, £1,500; and the Assistant Postmaster-General, £1,200. The act also stipulates that "if and so long as there are two parliamentary under-secretaries to the Foreign Office, to the Admiralty, or the War Office, the annual salary payable to each of the two parliamentary under-secretaries may be of such amount as may be determined by the Treasury, but so that the aggregate of the annual salaries payable to both of them does not exceed three thousand pounds."

⁸ *Clause 1.*

⁹ This portion of clause three applies particularly to the following: Lord President of the Council; Lord Privy Seal; Postmaster-General; First Commissioner of Works; Minister of Pensions; Chancellor of the Duchy of Lancaster; and to "any Minister of the Crown to whom section two of the Reflection of Ministers Act, 1919, applies, if . . . his salary as such is less than five thousand pounds a year."

London Gazette of the date when a minister of the crown "becomes or ceases to be a member of the cabinet."¹⁰

The foregoing provisions as to salaries do not apply to the prime minister. His salary and pension are dealt with in clause four. The law reads that a salary of £10,000 shall be paid "to the person who is Prime Minister and First Lord of the Treasury." Further, former prime ministers are to receive a pension of £2,000 a year.¹¹ No person is eligible for this pension, however, "so long as he is in receipt of any pension under the Political Offices Pension Act, 1869, or any salary payable out of moneys provided by Parliament, the revenues of the Duchy of Lancaster, or the Consolidated Fund of the United Kingdom."¹²

A further departure in British constitutional practice is to be found in clause five, which provides that the leader of the Opposition shall receive an annual salary of £2,000. This salary will not be paid to him, however, if he is in receipt of a pension under this act. If he receives a pension under the Political Offices Pension Act, 1869, the salary payable under the present act will be reduced by a sum equal to the amount of such pension. The leader of the Opposition is defined as "that member of the House of Commons who is for the time being the Leader in that House of the party in opposition to His Majesty's Government having the greatest numerical strength in that House." If any doubt arises as to who shall be designated as leader of the Opposition, the Speaker of the House of Commons is to decide. For the purposes of this act, his decision will be final.¹³

Provisions which seek to prevent the payment of duplicate salaries are to be found in clause six. Except for those persons who, under the Ministers of the Crown Act, are entitled to additional salaries as cabinet ministers, "a person to whom any salary is payable under this act shall be entitled to receive only one such salary." If a person holds two or more offices, the salary paid him shall be in respect of the office of which the highest salary is payable. No person receiving a salary or pension under this act may receive payment in respect of his membership in the House of Commons.

All salaries payable under the present act are to be from funds provided by Parliament, except the salary of the leader of the Opposition. His salary and the pension payable to a former Prime Minister and First Lord of the Treasury are to be paid out of the Consolidated Fund.¹⁴ The House

¹⁰ *Clause 3.* See Sir John Simon's statement in the Commons, April 12, 1937. *Parl. Debts.*, Vol. 322.

¹¹ *Clause 4.* One who "before or after the passing of this Act, has been Prime Minister and has as First Lord of the Treasury taken the official oath prescribed by section five of the Promissory Oaths Act, 1868, shall be entitled to a pension of two thousand pounds a year."

¹² *Clause 4.*

¹³ *Clause 10.*

¹⁴ *Clause 7.*

of Commons may, of course, reduce the salaries payable under the act except for those paid out of the Consolidated Fund.¹⁵

The portion of the act which simplifies the law as to the capacity of persons holding offices of profit to sit and vote in Parliament has eliminated certain inconveniences which have existed since Queen Anne's time. Previous requirements sometimes interfered with cabinet building because of the necessity of distributing posts in a prescribed manner between the two houses of Parliament.¹⁶ The Ministers of the Crown Act provides that of the 17 persons included in part one of the first schedule, not more than 15 may sit and vote as members of the House of Commons.¹⁷ Of the four mentioned in part two of that schedule, not more than three may sit in the House of Commons.¹⁸ The number of parliamentary under-secretaries who may sit and vote there may not exceed 20.¹⁹ If at any time the number of persons in each of the above categories who may be members of the Commons exceeds the limit set for each group, such persons shall not have their elections invalidated, but only those who held office and were members of the House before the excess occurred may sit or vote in the House until the number of ministers in each category shall have been reduced to the number provided for in this act.²⁰

Although the Government was able to make use of its tremendous majority to secure the passage of the Ministers of the Crown Act without serious difficulty, the debates on the bill were not without interest. Some of the provisions precipitated a lively discussion, and opposition came from all parts of the House of Commons. There was general hostility toward any item that might possibly result in the enlargement of the cabinet. Some members took advantage of the opportunity to criticize the large salaries and fees paid to law officers of the crown. However, the portions of the bill which evoked most debate were those dealing with the amounts of the proposed salaries, the salary for the leader of the Opposition, and the added duties of the Speaker of the House of Commons.

The attempts of Liberal and Labor members of the Commons to obtain from the Government a promise to embark on a scheme of governmental

¹⁵ *Clause 8.*

¹⁶ The statement of Sir John Simon before the Commons on April 12. *Parl. Debs.*, Vol. 322.

¹⁷ *Clause 9.* The 17 offices are above, in the list of those entitled to salaries of £5,000.

¹⁸ *Clause 9.* To be found above, in the enumeration of those entitled to salaries of £3,000.

¹⁹ *Clause 9.* These posts are indicated in footnote 7, *supra*.

²⁰ *Clause 9.* It is further provided that if any person included in the above categories "sits or votes in the House of Commons at a time when he is not entitled to do so by virtue of this section, he shall be liable to a penalty not exceeding five hundred pounds for each day on which he so sits or votes."

reorganization in connection with the proposed recognition of the cabinet met with failure. At the second reading of the bill, Mr. Greenwood moved "that this House, whilst in favor of the removal of anomalies in ministerial salaries, provided that the aggregate charge is not increased, is of the opinion that a reconsideration of the machinery of government and of the allocation of ministers to departments should precede legislation on ministerial remuneration."²¹ In support of his motion, Greenwood cited the need for administrative reform and added that if ministers' salaries were to be altered, "a prior consideration should be to rationalize the functions which those ministers have to carry out." Others felt that the only desirable type of reform was that which would see several ministerial posts abolished entirely.²² From all parts of the House, there were speakers who regarded with misgivings any arrangement that might make possible a larger cabinet. Sir John Simon, in replying for the Government, indicated, however, that such was not the intent of the proposed bill. Stanley Baldwin, at that time prime minister, urged the adoption of the bill on its merits and argued that it should not be linked with other proposals for reform.²³ The contemplated revision of ministerial salaries, he said, was a subject which should have been dealt with long since. He gave it as his opinion that if this bill were not to be passed until there should have been governmental reorganization, it would be doubtful whether it would be enacted in the lifetime of any member sitting in the House. In the division which occurred, Greenwood's motion was defeated, 228 to 136.²⁴

Notwithstanding Mr. Baldwin's admonition that the cabinet is "a body of equals," and that it was a "wrong principle" that its members should be unequally reimbursed, there was prolonged debate on the matter of general increased expenditures for salaries.²⁵ Attacks, though futile, were made against the bill as a whole because of the increased costs involved, and against specific offices on the grounds that all ministers were not required to perform equal duties.²⁶ Mr. Lees-Smith proposed an amendment that the salaries of cabinet ministers be fixed at £4,000 instead of £5,000.

²¹ *Parl. Debs.*, Vol. 322.

²² See the remarks of Mr. Mander, *ibid.*

²³ House of Commons, April 12. *Parl. Debs.*, Vol. 322.

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ Repeatedly during the debate, members showed their displeasure with the allegedly high incomes received by the law officers of the crown through salaries and fees. Mr. Baldwin replied to the critics by reminding them that this was not the time to pronounce upon the merits of the existing practice where law officers were concerned. See, particularly, the debates on April 12 and 28. *Parl. Debs.*, Vols. 322, 323. See also the debate on June 3, as reported in the *London Times*, June 4, 1937. Sir Kingsley Wood promised for his cabinet colleagues that the matter of compensation for law officers would be given further consideration. *Parl. Debs.*, Vol. 323.

It was suggested that cabinet members would then be compensated on an equal basis, and that this could be accomplished by increasing some salaries and by reducing others.²⁷ Other motions made sought to reduce the proposed salaries for the Parliamentary Secretary to the Treasury, the Lord President of the Council, the Lord Privy Seal, the Postmaster-General, and the First Commissioner of Works.²⁸ Others suggested that while general increases were uncalled for, the Prime Minister, the Chancellor of the Exchequer, and the First Lord of the Admiralty ought to be given higher salaries. Sir Archibald Sinclair moved that the Prime Minister's salary be £7,000 instead of the proposed £10,000.²⁹ He believed the smaller figure to be satisfactory, since the Prime Minister was to be given a pension of £2,000 upon leaving office. Sinclair felt also that a £4,000 salary level for ministers was sufficient. He opposed the proposed figures on the ground that rigid public economy was necessary. Labor spokesmen agreed with the opposition Liberals on this matter. Mr. Maxton, in speaking for the Independent Labor party, said that he could find no grounds for supporting a bill which would vote lavish salaries to ministers at a time when living and working conditions for the masses were intolerable.³⁰ Further, he could see no reason for paying ministers so much more than private members of the Commons. "The intellectual gulf," Maxton added, "between the cabinet minister and the man in his own party who is not a cabinet minister is a very narrow one. We know, of course, that it is always the best men in any particular party who go to form a cabinet; . . . but their superiority is not so very marked that it needs to be represented by the financial difference between £5,000 and £400."

Sir John Simon reminded the House, however, that those who had had experience in cabinet-making would recognize that the task of building a cabinet would be less difficult if the posts were on an equal salary basis. He urged that the clause be adopted as proposed. All of the opposition amendments were defeated, and the vote on having clause one stand as a part of the bill resulted in a Government victory, 176 to 94.³¹

There was general support in the Commons for the proposal to compensate former prime ministers. In fact, one Tory member, Captain Cazalet, desired that all cabinet ministers who had served for five years or more be given pensions. Although all former ministers were not provided for, it was generally agreed that a former prime minister ought to be cared for in some way so that years of service in public life would not

²⁷ *Parl. Debs.*, Vol. 323. House of Commons, April 28.

²⁸ *Parl. Debs.*, Vol. 323.

²⁹ *Ibid.* House of Commons, April 29.

³⁰ House of Commons, April 12. *Parl. Debs.*, Vol. 322.

³¹ *Parl. Debs.*, Vol. 323. House of Commons, April 28.

go unrewarded. The Labor opposition agreed with the Government on this point. Mr. Greenwood, in giving Labor support, said: "... it is no doubt right that any ex-prime minister, having borne the weight of responsibility as prime minister, should be relieved of the temptation of writing for the Hearst press in America or seeking to make adventitious gains by other means."³² An amendment proposed by a member of the Conservative party that "a person receiving a pension as prime minister must have occupied that office for a period or periods amounting in the aggregate to not less than six months" was defeated.³³

The proposed salary for the leader of the Opposition, which seemed like a startling innovation to many members of the Commons, is not a new practice in Anglo-Saxon government, as students of Canadian institutions know. Stanley Baldwin strongly supported this proposal. He pointed out that, aside from cabinet ministers, the one individual who could devote little time to other than political affairs was the leader of the Opposition. The Labor party, he said, from its very constitution, would be unlikely to have many members willing and able to undertake the task. Baldwin added that the same might be true of the Conservative party at some future date.³⁴ Labor, too, favored the proposal, although Greenwood insisted that the leader of the Opposition should, in no circumstances, become a tool of the Government. Greenwood professed to see in the salary for the leader of his party a "challenge to the totalitarian states" and a recognition of freedom of criticism and a bulwark of democracy.³⁵ Labor's enthusiasm in this matter was not shared by the Independent Labor party and by the opposition Liberals. Many Conservative members, too, expressed the view that the leader of the Opposition was not a part of the government machinery, and therefore was entitled to no salary. Mr. Pickthorn pointed out that the office was not an old or established one, and that, in any case, the government would be paying a man the electorate had indicated it did not want.³⁶ In reply, Sir John Simon stated that this clause was an integral part of the bill and reminded his supporters in the House that the leader of the Opposition was discharging a public duty in opposing the Government.³⁷ The clause was allowed to remain a part of the bill by a vote of 215 to 41.³⁸

³² *Parl. Debs.*, Vol. 322.

³³ House of Commons, June 3. Reported in the *Times*, June 4, 1937.

³⁴ In the Commons, April 12. *Parl. Debs.*, Vol. 322.

³⁵ George Lansbury, former leader of the Labor opposition, was outspoken in his criticism of this proposal. His argument was that all members of the House ought to be on an equal basis, and that no member, regardless of his position, should be given more money than any other member. See *Parl. Debs.*, Vol. 323, c. 643 ff.

³⁶ *Parl. Debs.*, Vol. 323, April 29, 1937.

³⁷ *Ibid.*

³⁸ *Ibid.*

Some misgivings as to the wisdom of having the Speaker of the House of Commons, under certain circumstances, designate the leader of the Opposition were expressed by Conservative members. It was feared that the Speaker might be placed in a position where he would be criticized by the House. It was argued also that he might become embroiled in politics.³⁹ Some members pointed out that the practice in forming a new Government was for the crown to send for the leader of the Opposition. By virtue of this bill, it was said, the Speaker might indirectly have the power to designate the next prime minister. Two amendments—one to have the leader of the Opposition designated by resolution of the House, and the other to give that power to the committee on privileges—were withdrawn and the original proposal was not modified.

Before conclusion of the debate in the House of Commons, two other items called forth additional discussion. One dealt with the rather loose way in which the bill defined the cabinet. Cabinet status was to be determined by the publication of a list of names in the *London Gazette*. It was suggested that this was an inadequate way to indicate cabinet membership.⁴⁰ However, the suggestion that a document of appointment be used as evidence of cabinet membership, rather than publication in the *Gazette*, was not adopted. Mr. Mander then proposed an amendment to the bill which would have made it impossible for a person to be paid under clause one who was engaged in business as director of a public company, or in private practice in a profession. The author of the proposal manifestly thought that membership in the Government should be a full-time job. In reply, Sir John Simon said that such a proposal would work unnecessary hardship on many. He said that this matter had arisen before and that a declaration of the prime minister of the day on the subject had sometimes been made. In December, 1935, according to Sir John, Mr. Baldwin had indicated that the rule laid down by Sir Henry Campbell-Bannerman in 1906 would be followed. This rule required ministers to resign directorships, except honorary directorships and directorships in private companies. Further, the rule was laid down that "no minister must allow himself to spend time to the disregard of his public duties in the pursuit of private interests;" nor should a minister ever permit his duty and his private interests to conflict, since ministers had "exceptional means of information."⁴¹ Mr. Mander was satisfied with this statement and withdrew his motion.

On June 3, 1937, the Ministers of the Crown Act received its third reading in the House of Commons and was adopted by a vote of 156 to

³⁹ See the remarks of Captain Balfour and Mr. Pickthorn, April 12, 1937. *Parl. Debts.*, Vol. 322.

⁴⁰ See the remarks of Mr. Kingsley Griffith, April 29, 1937. *Parl. Debts.*, Vol. 323.

⁴¹ House of Commons, June 3. Reported in the *Times*, June 4, 1937.

112. It passed the third reading in the House of Lords on June 29. The Lords did not concern themselves for long with the bill. The Lord Chancellor assured Lord Mottistone that the act did not require the leader of the Opposition to be in the Commons. It merely provided that the leader of the Opposition there should be paid, while in the House of Lords such a leader would give his services free.⁴²

The Marquess of Salisbury was startled by the provision that a pension should be paid to one who had been prime minister and First Lord of the Treasury. He pointed out that for years the Treasury and the Commons had been associated in the general mind, and that the proposal would prevent a prime minister, by statute, from being a member of the House of Lords. The Lord Chancellor, however, assured the House of Lords that the bill was not a "subtle device to prevent any possibility of a member of that house becoming prime minister."⁴³ No further debate of consequence occurred in the Lords; and the bill, which is now an essential part of the British constitutional structure, was enacted without amendment.

HARLOW J. HENEMAN.

University of Michigan.

Administrative Regions in Great Britain. In the administration of public affairs in Great Britain, several government departments have found it convenient to divide the country into varying numbers of regional districts, each covering a group of counties. These districts vary a good deal in number and in area for the different departments, though in some cases a similar area is used by more than one department. The largest area is Scotland, with an extensive organization of public administration under the Secretary of State for Scotland, and its own judicial system, while other departments also have branch headquarters for Scotland. Northern Ireland forms another important region, with a large degree of autonomy, under a separate parliament; while, as in the case of Scotland, several departments of the United Kingdom have branch headquarters in Belfast. Wales is also a distinct district for several departments.

The oldest district system in continuous existence is that of the Church of England, with its two provinces of Canterbury and York. Each of these is in turn divided into dioceses—29 in the province of Canterbury and 12 in the province of York. But the bishoprics are too numerous to serve as a basis for a general system.

The Church of Scotland also has a series of regional districts. The local kirk sessions are grouped into 66 presbyteries, and these into 12 provincial synods (each including from three to nine presbyteries). At the

⁴² House of Lords, June 21. *London Times*, June 22, 1937.

⁴³ *Ibid.*

head of the system is the General Assembly, composed of commissioners elected by the presbyteries.

Another series of regional areas of ancient origin is the system of judicial circuits for judges of the High Court. There are now eight of these circuits, in addition to the central law courts in London: Northern, North Eastern, Midland, North Wales and Chester, South Wales, Oxford, South Eastern, and Western. There are also 89 district registrars of the High Court, and 23 district probate registries.

The Exchequer, the Board of Customs and Excise, and the Board of Inland Revenue have branch offices in Scotland and Northern Ireland, and collectors and other officials at district stations throughout the United Kingdom.

In the time of Cromwell, the whole country was divided into military districts, each under a major-general. At the present time, under the War Office, the army in Great Britain has eight regional headquarters: Aldershot, Eastern, London district, Northern (at York), Northern Ireland, Scottish, Southern, and Western. There are likewise numerous munitions factories and other institutions at various places in the kingdom; also troops in various colonies and dependencies, and at some foreign stations, as in China, Egypt, and Malaya.

The Air Force divides the country into seven areas: Air Defence, Central Area, Fighting Area, Inland Area, Western Area, Cranell (in Lincolnshire), and Holton (in Buckinghamshire). There are also colonial and foreign stations.

The Admiralty has a large number of armament depots and factories, dockyards, and other naval stations in Great Britain, but these are not organized into geographical districts. The department of electrical engineering has, however, four districts, with headquarters at Glasgow, Manchester, Newcastle, and London. The Navy is organized into fleets and squadrons in different parts of the world.

The Foreign Office, like the Navy, has agents in all parts of the world, and offers no basis for territorial areas in the United Kingdom. It has, however, a branch passport office at Liverpool.

The Ministry of Health also makes use of regional districts. District auditors, who audit the accounts of county councils and urban and rural district councils, were formerly 30 in number, with separate auditors for county accounts and for urban and rural district accounts. This has been changed so that there are now 19 chief auditors, each in charge of a district, with assistant auditors. There is no direct appeal from the decision of an auditor; but a chief inspector of auditors exercises some supervision in correlating the work of the auditors, and the minister has power to waive a surcharge in a particular case, while leaving the auditor's ruling in force for the future.

In the insurance service, some 12,000 physicians are engaged in connection with those receiving sick benefits, on a panel system; and other physicians are engaged to review the cases of those on sick benefit, and incidentally to serve as a means of supervising the physicians dealing with sick persons. These reviewing physicians are grouped in 30 regional areas, each containing about 400 doctors on the insurance panel, with a regional officer in charge. These regional areas are in turn grouped into four larger divisions—Northeastern, Northwestern, Southwestern, and London and Southeastern, each in charge of a chief inspector with a staff of about 40. Like the smaller regional areas, these divisions are organized on the basis of conditions and the number of doctors, and vary widely in area. The Southwestern division extends from Birmingham to Cornwall.

The Board of Education divides England and Wales into geographical districts and divisions for the inspection of schools. There are some 315 local educational authorities in England and Wales, each in charge of the schools in what is technically called an "area." These vary widely in population from the county of London to some of the smaller boroughs. For inspection purposes, one or more of these areas form a district, to each of which are assigned, as a rule, three inspectors—one for elementary schools, one for secondary schools, and one for technical schools. The districts are grouped into nine divisions for England, each in charge of a divisional inspector, who is directly responsible to the senior chief inspector for coördinating the work of the district inspectors within the division. The divisions are as follows: (1) Northern: Northumberland, Cumberland, Westmoreland, Durham; (2) North Eastern: Yorkshire; (3) North Western: Lancaster, Cheshire; (4) West Central: Stafford, Warwick, Gloucester, Hereford, Salop, and Worcester; (5) East Central: Derby, Nottingham, Leicester, Rutland, Northampton, Buckingham, Oxford, and Lincoln; (6) Eastern: Norfolk, Suffolk, Cambridge, Soke of Peterborough, Huntingdon, Bedford, Hertford, and Essex; (7) Metropolitan: London and Middlesex; (8) South Eastern: Surrey, Berks, Hampshire, Isle of Wight, Sussex, and Kent; and (9) South Western: Cornwall, Devonshire, Somerset, Dorset, and Wilts. Wales and Monmouth are inspected by the Welsh department of the Board.

The Home Office factory inspection department has 10 superintendents, inspectors of divisions for territorial regions: Eastern, East Lancashire, Midland, North Midland, North Eastern, North Western, Southern, Western, Central Metropolitan, and Scotland.

The Ministry of Labour has 12 regional districts, as follows: North 1. Durham and Northumberland; North 2. Cumberland, Westmoreland, and Yorkshire (East and North Riding); North 3. Yorkshire (West Riding); North 4. Lancashire and Cheshire; Midlands 1. Gloucester, Hereford, Salop, Stopps, Warwick, and Worcester; Midlands 2. Derby,

Lincoln, Northants, and Wilts; East. Cambridge, Hunts, Lines, Norfolk, Suffolk, and Rutland; South West. Cornwall, Devon, Dorset, Somerset, and Wilts; South East. The rest of England; Wales 1. Brecknock, Caermarthen, Glanvergan, and Monmouth; Wales 2. The rest of Wales; Scotland.

These show a wide variation in population, from 30 per cent of the total in the South Eastern region (including London) to 1.5 per cent in North Wales. North 4, Midland, and Scotland have each from 10 to 13 per cent. The others have from 2.8 per cent (North 2) to 7.68 per cent (North 3).

The finance department of the Ministry of Labour has seven local finance offices—at Birmingham, Bristol, Cardiff, Edinburgh, Leeds, London, and Manchester. The industrial relations branch has six out-stations—at Birmingham, Bristol, Glasgow, Leeds, London, and Manchester. The trade boards branch has six out-stations—at Birmingham, Bristol, Edinburgh, Leeds, Lincoln, and Manchester.

The Unemployment Assistance Board has five regional officers, and 25 district officers in charge of out-stations.

The Ministry of Transport has six divisional areas—Eastern, London, Midland, Northern, Southern, Wales, and Monmouth. There are also 11 regional areas for traffic commissioners—Eastern, East Midland, West Midland, South Eastern, South Wales, Metropolitan, Western, and two areas in Scotland (Northern and Southern). There is also an advisory committee for London and the Home Counties.

The Electricity Commissioners and Central Electricity Board have organized nine regional schemes for electricity supply, covering the whole of Great Britain except the north of Scotland. There are also eight electricity districts, covering parts of Great Britain. Four of these have joint electricity authorities—London and the Home Counties, North-west Midland, West Midland, and North Wales and South Cheshire. Four have an advisory board or committee—East Midland, Mid-Lancashire, South-west Midland, Edinburgh and Lothian.

Connected with the Ministry of Agriculture, there are agricultural wages boards for each county, local fishery committees, fishery boards, and catchment and drainage boards.

The Post Office has had a system of 13 postal districts, in charge of surveyors, nine postmaster surveyors for large towns and neighboring territory, and for the London area, and an overlapping set of 55 engineer districts for the telegraph and telephone service. This is being replaced by a system to provide nine regional areas and London, within which there will be about 500 local postal areas and the 55 engineer districts. The Scotland and North Eastern Districts have been established.

The Ministry of Pensions has 11 regional areas—London, East Mid-

land, Exeter and district, Leeds and district, Liverpool and district, Northern (Newcastle), South East Lancashire and East Cheshire, South Wales, West Midlands, North and East Scotland, and Southwest, and West Scotland.

The Board of Trade has nine surveyor districts for the mercantile marine department—East of Scotland, North-east England, East of England, London district, South and Southwest England, Bristol Channel district, Liverpool district, West of Scotland, and Northern Ireland.

The Forestry Commission has seven divisional offices, at London, Cambridge, Bristol, Durham, Glasgow, Aberdeen, and Inverness.

The Stationery Office has four provincial branches, at Belfast, Cardiff, Edinburgh, and Manchester (for the Northern area).

The British universities are located in different geographical sections; and while Oxford, Cambridge, and London have students from all parts of the country, as well as from the colonies, dominions, and foreign countries, the students at other institutions come largely from the neighboring counties, though there are no defined areas. The universities in England are at Oxford, Cambridge, London, Durham (and Newcastle), Manchester, Birmingham, Liverpool, Leeds, Sheffield, Bristol, and Reading. The University of Wales has five colleges, in five different places. The four Scottish universities are at St. Andrews, Glasgow, Aberdeen, and Edinburgh. The University of Northern Ireland is at Belfast. There are four universities in the Irish Free State—two at Dublin (Trinity and the National University), one at Cork, and one at Galway.

The British Broadcasting Corporation has a series of regional areas—for the London district, Midlands, Northern, Western, Scotland and Northern Ireland, and other stations at Aberdeen, Athlone, Bournemouth, Plymouth, and Newcastle.

The number of such regional districts varies from four to twelve. The most clearly defined areas are Scotland, Northern Ireland, and Wales, though Scotland and Wales are sometimes divided. Other descriptive terms used by several departments are: Northern, Midlands, Eastern, the London metropolitan area, South Eastern, Southern, and Western. But the areas covered by these terms is not always the same; and in some cases there are subdivisions, such as North Eastern and North Western, East and West Midlands, and Southwestern.

JOHN A. FAIRLIE.

University of Illinois.

INTERNATIONAL RELATIONS

The Status of Foreign Concessions and Settlements in the Treaty Ports of China. Hostilities now in progress in the Far East may produce significant changes in the status of foreign concessions and settlements in China. It may be useful, therefore, to classify these areas and to survey their status prior to the present "undeclared war." Among the several privileges gained by Great Britain, the United States, and France in their treaties with China in 1842-44 was the right of foreign residence in the five ports opened to trade by these treaties: Amoy, Canton, Foochow, Ningpo, and Shanghai. Arrangements for the residence of foreigners and their families in these ports were to be made by the consular officials and the local Chinese authorities acting "in concert together." These arrangements resulted in the delimitation of areas for foreign residence, generally called "settlements," which grew into municipalities exempt from Chinese jurisdiction and completely under foreign control. As more ports were opened for trade by the various treaties negotiated after 1844, certain nations requested exclusive areas in many of them. Such areas were generally called "concessions."

The terms "settlement" and "concession" have often been used indiscriminately, but the word "settlement" has most often been applied to a foreign-controlled area in which all the Treaty Powers have equal rights.¹ Such an area is governed by a locally elected municipal council of foreigners. In existing settlements, a minority of Chinese members has been added in recent years. Both Chinese and foreigners may reside in a foreign settlement. Its chief characteristic is the fact that land can be leased by foreigners directly from the Chinese owner, the deeds being registered through the consulate of the foreigner and with the local Chinese authorities.

The term "concession," on the other hand, has been applied to a grant of land by the Chinese government to a single foreign nation, either directly by treaty or indirectly under general treaty terms by the local Chinese authorities. A concession is governed by the consular representative of the nation controlling the grant, sometimes with the assistance of an elected municipal council. The chief characteristic of a national concession is that the grant is in the form of a long-term or perpetual

¹ The "treaty powers" are those nations possessing special rights and privileges in China by treaty. There are at present 15: Great Britain, the United States, Japan, France, Italy, Norway, Sweden, Denmark, the Netherlands, Spain, Portugal, Peru, Mexico, and Switzerland. Germany and Austria-Hungary lost their treaty rights after the World War, and Russia gave up her rights as a matter of political expediency. Belgium was declared by China to have lost her rights in 1927. See W. W. Willoughby, *Foreign Rights and Interests in China* (Baltimore, 1927), Vol. II, p. 586.

lease on which the nation concerned pays a nominal ground rent to the Chinese government. The nation controlling the concession, in turn, acts as landlord by sub-leasing plots to individuals, either foreign or Chinese.²

Classification of Settlements. There exist at present two general foreign settlements as defined—the International Settlement at Shanghai and the International Settlement at Kulangsu (Amoy). The Shanghai International Settlement was the result of amalgamation of areas set aside for British and American residence in 1845 and 1863 respectively. Its international character is due largely to an early insistence by Americans in Shanghai that the treaties of 1842–44 did not provide for the establishment of exclusive national concessions. The International Settlement at the port of Amoy covers the whole of the island of Kulangsu. An informal organization was established by foreigners resident there soon after the port was opened, but the settlement was not formally organized until the approval of its Land Regulations by the Chinese government in May, 1902.³

In addition to the settlements at Shanghai and Amoy, informal foreign settlements developed in Chefoo, Foochow, and Ningpo. At these ports, foreigners congregated in an area and set up a quasi-municipal organization, assessing themselves for the upkeep of roads, sanitation, etc., with the tacit but not explicit consent of the Chinese government. Chefoo is the only port at which such a settlement exists at present.

As the foreign powers demanded that more and more ports be opened to trade, the Chinese government adopted the expedient of expropriating land in some of these ports which it set aside for foreign residence. This was done in Yochow, Wuhu, Soochow, Hangchow, Foochow, Nanning, and Nanking. But in all of these so-called "settlements" the Chinese government retained full jurisdiction as to taxation, policing, etc. Gradually these settlements were absorbed into the Chinese city, and they cannot now be distinguished as separate areas.

Classification of National Concessions. There is definite record of grants by the Chinese government of 23 concessions to eight nations in 10 Chinese ports.⁴ At present, only four nations possess concessions, as follows: Great Britain—two, at Canton and Tientsin; Japan—three, at Hangchow, Hankow, and Tientsin; France—four, at Canton, Hankow, Shanghai, and Tientsin; Italy—one, at Tientsin. Thirteen concessions,

² In some concessions, Chinese are excluded from renting land, but circumvent this by renting in the name of a foreigner, paying him for the privilege. In the area known as the British Extra-Mural Extension in Tientsin, and in the extensions of 1898 and 1914 to the French concession in Shanghai, land leasing is on the same basis as in a general foreign settlement.

³ G. E. B. Hertslet, *China Treaties*, Vol. II, p. 774.

⁴ See table appended.

therefore, have reverted to China. Great Britain has given up four. The British concession at Amoy was formally organized in 1877,⁵ but with the development of the International Settlement on the island of Kulangsu, where the British had equal rights with other treaty powers, a separate concession became unnecessary, and with the exchange of British registered title deeds for Chinese title deeds in 1930, the last vestige of the concession disappeared. As a result of the establishment of the Chinese Nationalist government in 1927, Great Britain returned to China her concessions at the ports of Hankow, Chinkiang, and Kiukiang.⁶

By treaties with China in 1896, Japan gained rights to exclusive concessions in a number of ports. In addition to the four concessions still retained by Japan, concessions were established at Amoy, Chungking, and Shashih. Only the one at the latter port was formally organized. Trade was insufficient to warrant the development of municipalities in these areas, and so far as is known the Japanese concessions at these ports have disappeared as such and the areas are under control of the local Chinese authorities.

Germany and Austria-Hungary lost all special privileges in China as a result of the World War, and consequently the Chinese government took over the German concession at Hankow and the German and Austro-Hungarian concessions at Tientsin. In 1920, the Chinese also took over administrative control of the Russian concessions in Hankow and Tientsin. This was later confirmed when Soviet Russia gave up the special privileges in China acquired by the Tsarist government. In 1930, the Belgian concession in Tientsin was returned to China by special agreement.⁷

In addition to the 23 concessions formally established as noted above, Great Britain, Japan, and the United States were granted rights to concessions which either were not established or have a doubtful status at the present time. At the port of Wuhu on the Yangtze, an area was delimited for a British concession in 1877 but was never organized. By a protocol with China in 1896, Japan was granted the right to exclusive conces-

⁵ Hertslet, Vol. II, p. 1125.

⁶ Rendition of British concessions at Hankow and Kiukiang, by Chen O'Maller agreement, March 15, 1927. Text in *China Year Book*, 1928, pp. 739 and 741 ff.; and in Great Britain, Foreign Office, *Papers Relating to British Concessions in Hankow and Kiukiang*, China No. 3 (1927). Rendition of British concession at Chinkiang by exchange of notes, October 31, 1929. Texts in *China Year Book*, 1929-30, pp. 105-109, and in League of Nations, Treaty Series, No. 2289, Vol. XCIX, p. 441.

⁷ Rendition of Belgian concession in Tientsin by agreement of August 31, 1929. Text in *China Year Book*, 1929-30, pp. 916 ff., and in League of Nations, Treaty Series, No. 2810, Vol. CXII, p. 105.

sions in the ports of Amoy, Chungking, Hangchow, Hankow, Shanghai, Shashih, Soochow, and Tientsin.⁸ This right has not been exercised in Soochow and Shanghai. Both Great Britain and Japan, as well as Russia, made tentative arrangements for the establishment of concessions at the port of Newchwang in Manchuria after 1861. Although a Russian area was partially organized about the time of the Boxer rebellion, no other concessions were formally established there. Newchwang is now a part of Manchoukuo.

It has frequently been stated that the United States has never held concessions in China. While such a statement may be legally correct, it does not represent the whole truth. In Shanghai, the local Chinese officials offered to set aside an area for the use of Americans soon after the port was opened. This was refused by the American consul, who thought the site disadvantageous. In 1863, toward the end of the Taiping rebellion, an unofficial American settlement had developed outside the then foreign settlement in the area known as Hongkew. On July 4, 1863, the American consul, George M. Seward, concluded an agreement with the local Chinese officials for delimitation of an American "settlement" or, by my definition, actually a concession.⁹ This action, so far as is known, was never approved by the United States government, then involved in the Civil War, and before the year ended the area was amalgamated with the former British area to form an enlarged international settlement. The United States, however, possesses equal rights with the other treaty powers in the International Settlement at Shanghai, and likewise has equal responsibility.

At the port of Amoy, there existed an area adjacent to the British concession which was known locally as the "American Settlement" until about 1900. This area was never officially recognized as a concession, and in 1903 the United States approved the Land Regulations for the International Settlement at Kulangsu, thus placing itself on a basis of equality with the other treaty powers and assuming an equal responsibility for this settlement.

At Tientsin, an area was set aside for American residence by the local Chinese officials in 1869. This area came to be known locally as the American concession, and was so referred to in diplomatic correspondence.¹⁰ Apparently the United States consular authorities in Tientsin exercised jurisdiction over this land until 1880. In 1896, all claim to control or jurisdiction was formally abandoned by the United States govern-

⁸ Protocol concerning Japanese settlements, inland navigation, etc. Oct. 19, 1896. *Hertslet*, Vol. I, p. 91. 1896/6, Arts. 1, 3.

⁹ *Foreign Relations of the United States*, 1867, Part I, China, Inclosure in No. 125.

¹⁰ *Ibid.*, 1901, Vol. I, pp. 40 ff. See inclosure No. 2 in No. 551, p. 50.

ment.¹¹ Although in 1900 Mr. Conger, the American minister to China, urged that the government reassert its rights, such action was not taken and the area was included in the extension of the British concession in 1901-02. In the British extension, Americans and other foreigners possessing treaty privileges were allowed (by the British) to rent land through registration of their deeds with their own consulates.

The legal bases for the existence of these areas varies with the circumstances of their establishment. The International Settlement and the French concession at Shanghai were developed under the terms of the treaties of 1842-44, which made no specific provisions for foreign municipalities on Chinese soil. Approval of local regulations and of extensions of these two areas was in all cases obtained from the local Chinese authorities with the tacit, but not explicit, consent of the Central Chinese government. Their legal position, therefore, is that of a customary servitude of long standing maintained by force, and recognized as such by the Chinese government. The remaining settlements and concessions have a more definitive treaty basis than those at Shanghai, and their development has been regularized by agreements with the Chinese government respecting their establishment and extensions of their boundaries.

Perhaps the most important question concerning the status of these settlements and concessions is whether a change in the status of one area can be made without affecting the status of other areas or without affecting the exercise of extraterritoriality. Historically, 13 concessions have reverted to China, while the remaining areas are intact; and extraterritoriality was not impaired by this process. Theoretically, the process could continue without any change in the exercise of extraterritoriality, but it must be pointed out that the areas given up were in minor ports or were held by minor powers, as in the case of the Belgian concession in Tientsin. It is extremely doubtful whether Great Britain, France, and Japan would agree to the rendition of their respective concessions in Tientsin unless they were also prepared to negotiate on the question of extraterritoriality. It is equally doubtful whether Great Britain, France, Japan, and the United States would agree to rendition of the Shanghai International Settlement, or even the one at Amoy, except as part of a general settlement of the question of foreign rights and privileges in China.

The second question to be considered with respect to the status of existing foreign settlements and concessions is their relation to the political and economic development of China. It is a recognized fact that the security of these areas, particularly in Tientsin and Shanghai, has been an important factor in the flow of Chinese capital from the interior to these treaty ports. This has resulted in intense speculation, particularly

¹¹ Instructions to this effect quoted in sub-inclosure No. 3 in No. 551, *op. cit.*

in Shanghai, and has undoubtedly hindered rural rehabilitation in the interior. The implications of this process need to be thoroughly studied before definite conclusions can be drawn.

On the other hand, these settlements and concessions, rendered secure on occasion by the armed forces of the foreign powers, have provided safe bases for the economic, political, and even military, penetration of China by the foreign powers. The Shanghai International Settlement and the Tientsin concessions contain headquarters for most of the foreign banks and business houses operating in China. A large proportion of foreign and Chinese industries are also located in these foreign-controlled areas, where they are generally free from Chinese jurisdiction and taxation, and where their property is under the protection of foreign guns. In Tientsin, the Japanese Concession was the initial base for Japan's military operations in North China. In Shanghai, the Hongkew district of the International Settlement, known locally as "little Tokyo," was used as a military base by the Japanese in 1932 and, now under their complete control, serves as their base of operations in the Yangtze valley. Japanese withdrawal from their Hankow concession was dictated by military strategy and does not mean that the Japanese will forego their rights in that port.

The full implications of the relation between existing settlements and concessions in the treaty ports and the economic, political, or military penetration of China by the foreign powers needs detailed study. It will suffice here to point out that the question of the future status of settlements and concessions is more than a problem of treaty agreements and legal technicalities; it is one fundamentally connected with all aspects of Sino-foreign relations.¹

WILLIAM C. JOHNSTONE.

George Washington University.

¹ The following table indicates the location of settlements and concessions, the dates of the original grants or agreements for their establishment, and dates of extensions and of rendition where that has taken place.

International Settlements:

Shanghai: British settlement delimited, 1845; made international, 1854; extensions, 1863 and 1899.

Kulangsu (Amoy): Developed as a general foreign settlement after 1843; right to national concessions granted Great Britain and Japan, 1860; international settlement established formally, 1903.

National Concessions:

Great Britain:

Canton—formally granted, 1859.

Tientsin—granted, 1860; extension, 1897; additional grant, 1900-02; grants consolidated, 1918.

(Continued on the following page)

Hankow—granted, 1861; extended, 1896; returned to China, 1927.

Kiukiang—granted, 1861; returned to China, 1927.

Chinkiang—granted, 1861; returned to China, 1929.

Amoy—right to concession, 1861; right given up, 1930.

France:

Shanghai—granted, 1849; extended, 1861, 1898, 1915.

Tientsin—granted, 1861; extended, 1902.

Hankow—granted, 1861; right not exercised; regranted, 1896.

Canton—granted, 1859.

Japan:

Tientsin—granted, 1896; extended, 1900-02; additional property leased in 1934-36; status of this property in doubt in relation to concession.

Hankow—granted, 1896.

Amoy—right granted, 1896. (See International Settlements above.)

Shanghai—right to request concession granted, 1896; not exercised to date.

Hangchow—granted, 1896—reported renewed for 30 years, 1935.

Shashih—granted, 1896; present status in doubt.

Yochow—granted, 1898; present status in doubt.

Samsha—granted, 1898; never taken up.

Foochow—granted, 1898; never taken up.

Chunking—granted, 1896; present status in doubt.

Soochow—granted, 1896; present status in doubt.

Belgium:

Tientsin—granted, 1902; returned to China, 1931.

Italy:

Tientsin—granted, 1901.

Germany:

Tientsin—granted, 1895; extended, 1901; taken over by China, 1919-20.

Hankow—granted, 1895; taken over by China, 1919-20.

Austria-Hungary:

Tientsin—granted, 1902; taken over by China, 1919-20.

Russia:

Tientsin—granted, 1900; taken over by China, 1920.

Hankow—granted, 1896; confirmed by China, 1900; taken over by China, 1920.

United States:

Shanghai—American settlement delimited, 1863; not recognized by United States government; amalgamated with former British settlement to form part of International Settlement, 1863.

Tientsin—Area delimited for American residence, 1869; quasi-U.S. jurisdiction over land until 1880; all jurisdiction abandoned, 1896; area included in British extension, 1901-02.

Amoy—Area known as American Settlement until 1900; never formally recognized.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

The list of round-tables, with leaders, at the December meeting of the American Political Science Association was announced in the August issue of the REVIEW. The committee on program, Professor Francis W. Coker, chairman, announces further (1) that three luncheon meetings will be addressed by Charles A. Beard, on "The Latest Judicial Conflict," Philip C. Staples, of the Bell Telephone Company of Pennsylvania, on "A Business Man's View of the Constitution," and Robert H. Jackson, assistant attorney-general of the United States, on a subject to be announced; (2) that among persons who will give addresses at general sessions are Professors Robert E. Cushman, Edward S. Corwin, and William Y. Elliott; and (3) that Professor Thomas Reed Powell's presidential address will be delivered on Monday evening, December 27, instead of the evening following.

Professor William Anderson is on leave from the University of Minnesota during the fall quarter and Professor Harold S. Quigley is serving as chairman of the political science department.

After a year spent in studying colonial problems in England, Ceylon, the Federated Malay States, Java, the Philippines, and Hongkong, Dr. Lennox A. Mills has returned to the University of Minnesota, where he has been advanced to an associate professorship.

Professor L. E. Aylsworth, of the University of Nebraska, is on leave during the first semester of the current year.

Professor Charles S. Hyneman has resigned his position at the University of Illinois to accept a professorship in the department of political science at Louisiana State University. In addition to serving as head of the department, he will be in charge of the bureau of governmental research.

Professor Russell M. Story, of Pomona College, has been made president of the Claremont Colleges and will be concerned especially with developing the program of the associated colleges and administering the various services of the central institution, especially the graduate school.

Professor R. A. MacKay, of Dalhousie University, has been named by Prime Minister King as one of five Canadian scholars and publicists who will serve as a royal commission to investigate the economic and financial basis of Canadian confederation in the light of social and economic developments in the past seventy years.

Professor Edwin A. Cottrell, of Stanford University, is on leave during the autumn quarter and is visiting institutions and carrying on research in the East.

Professor Charles Fairman, Brandeis fellow at Harvard University, will teach public law at Stanford University during the winter and spring quarters.

Professor James K. Pollock, of the University of Michigan, will serve as acting professor of political science at Stanford University during the summer quarter of 1938.

Professor Harold D. Lasswell is on leave from the University of Chicago during the summer and autumn quarters in order to carry on studies in China.

Mr. Herbert Emmerich, former deputy governor of the Farm Credit Administration, has been appointed associate director of the Public Administration Clearing House. He also has been appointed lecturer in political science at the University of Chicago.

Professor Floyd W. Reeves, who participated in the preparation of material for the President's Committee on Administrative Management, and who is now chairman and director of studies of the President's Advisory Committee on Education, will offer a course on general principles of administration upon his return to the University of Chicago in the winter quarter.

The Committee on Public Administration of the Social Science Research Council is sponsoring a study of the city manager plan, to be conducted by Mr. Harold Stone and Mr. Donald Price.

Professor Amry Vandebosch, on leave from the University of Kentucky, is spending a half-year in Europe studying Dutch colonial policy.

Dr. Carl J. Friedrich, appointed lecturer in government at Harvard University in 1926, has been advanced from an associate to a full professorship.

Dr. H. V. Thornton, formerly assistant professor of government at New York University, now holds an associate professorship at the University of Oklahoma.

Professor John W. Manning, director of the bureau of governmental research at the University of Kentucky, has been appointed chairman of a committee on public-service institutes, which will function as an investigating group for social service work.

Dr. Lewis Meriam, of the Brookings Institution, offered courses in the School of Social Service Administration at the University of Chicago during the second term of the summer quarter.

After a year spent in teaching and research at Harvard University, Professor Charles G. Haines has returned to his post at the University of California at Los Angeles.

Assistant Professor V. O. Key, Jr., has resigned his position at the University of California at Los Angeles to accept an appointment with the National Resources Committee at Washington, D. C. For the past year and a half, Dr. Key has been on the staff of the Committee on Public Administration of the Social Science Research Council at Washington.

At the University of Missouri, Dr. Martin L. Faust has been promoted to a full professorship.

During the past summer, Professor E. O. Stene, of the University of Kansas, acted as consultant to the research department of the Kansas Legislative Council on state administrative reorganization.

Professor Finla G. Crawford, of Syracuse University, spent the past summer in Washington as a consultant with the President's Advisory Committee on Education.

Professor William E. Mosher, of Syracuse University, participated in the program of the Institute of Government held under the auspices of the University of Southern California last June.

New instructors in political science at Dartmouth College this year include Dr. Robert K. Carr and Dr. Edmund W. Fenn, formerly of the University of Oklahoma and University of New Hampshire, respectively.

Dr. Julian S. Duncan, associate professor of political science at St. John's College, has joined the faculty of Babson Institute. He will teach courses in government and in government control of industry.

Dr. Alexander Daspit, assistant professor of government at Louisiana State University, is studying at Harvard during the current academic year. During his absence, his courses are in charge of Dr. Willmoore Kendall.

Dr. Raymond McKelvey, of Santa Barbara State College, has been added to the political science staff of Pomona College in a temporary capacity.

Mr. Glenn McClelland, who has been doing graduate work at Columbia University and teaching at Bard College, has accepted an instructorship at the University of Wisconsin.

Dr. Hyman E. Cohen has been reappointed research associate and instructor in the department of political science at the University of

Chicago for the current academic year. His *Recent Theories of Sovereignty* has lately been published by the University of Chicago Press.

Dr. Winston W. Crouch has been appointed to an instructorship at the University of California at Los Angeles.

Mr. Webb Noyes, who for some time has been attached to the staff of the library at the University of Michigan, has been appointed librarian of the School of Citizenship and Public Affairs at Syracuse University.

Mr. Howard M. Kline, formerly an instructor in the School of Citizenship and Public Affairs at Syracuse University, has been appointed to a similar position at the University of Michigan.

Messrs. Fordyce Luikart and Barrett Hollister, of Syracuse University, have accepted instructorships at the State Normal School at Brockport, New York, and Antioch College, respectively.

Dr. Paul M. A. Linebarger, formerly connected with Harvard University, is now instructor in political science at Duke University.

Mr. Hugh A. Bone, who received his doctor's degree at Northwestern University during the summer, has been appointed instructor at the University of Maryland.

A building to house the School of Citizenship and Public Affairs at Syracuse University will be dedicated in November.

Professor J. Alton Burdine, of the University of Texas, has been appointed to the sub-committee on personnel standards of the national Interstate Conference of Unemployment Compensation Administrators. It is the function of this sub-committee "to prepare a proposed plan of personnel procedure for state agencies along the lines of modern methods, including procedure for selection of personnel on a non-partisan merit basis." The plan will be discussed and considered for adoption at the next meeting of the Interstate Conference.

Under the sponsorship of the bureau of governmental research, the second annual Institute of Government was held at the University of Washington on July 26-28. Over one thousand public officials and lay people interested in government attended the various section meetings, which included training work in the fields of planning, public welfare, personnel administration, health, recreation, law enforcement, property assessment, taxation, financial administration, and the philosophy of government. Dr. Emery E. Olson, dean of the School of Government of the University of Southern California and lately visiting professor of public administration at the American University, Washington, D. C., again directed the Institute.

BOOK REVIEWS AND NOTICES

Constitutional Government and Politics. BY CARL JOACHIM FRIEDRICH.
(New York: Harper and Brothers. 1937. Pp. xvi, 591.)

The following note on Dr. Friedrich's important volume should be considered merely as a sort of critical summary of its contents and not as a review, because an adequate appreciation of its merits or defects can be obtained only when its materials and methods have been utilized and tested over a longer period in teaching and research. But even now it seems safe to state that whenever information is sought on not a few subjects in the realm of comparative government, reference to and consideration of Dr. Friedrich's contributions will hereafter be indispensable. The book is a fortunate blend of the German method of scientific penetration on the one hand and Anglo-Saxon descriptive analysis on the other, equally remote from doctrinaire abstractions and from quasi-sociological generalizations, sound and at the same time faithful to scholarly principles, well documented and well written, not always original or profound, but never dull.

Evidently Dr. Friedrich was not actuated by ambition to write what in Continental political science is understood by the term *Allgemeine Staatslehre* or *Théorie générale de l'état* (in the sense of Jellinek, Duguit, or Carré de Malberg), and of which Garner's and Willoughby's treatises are outstanding examples in this country. Nor is the book a systematic *traité* such as has been presented by Joseph-Barthélemy or Hauriou. On the contrary, it is a genuine contribution to comparative government of the customary Anglo-Saxon type and as such to be compared perhaps best to Dr. Finer's monumental *Theory and Practice of Modern Governments*. Like Finer, Dr. Friedrich chooses the "topical" or "functional" method in place of the "country-by-country" approach. Space forbids noting parallels and deviations in emphasis or selection of material by the two authors. While both agree on the importance of the civil service or bureaucracy for modern governments—Dr. Friedrich describes it as "the core" of the modern state—the latter has filled the main gap in Dr. Finer's work, namely, the decisive importance of the courts for the dynamics of government. The integration of the judicial function into the general frame of constitutional government is, both materially and methodically, one of the conspicuous merits of the book. In addition, Dr. Finer's volumes omit any specific treatment of authoritarian governments, while Dr. Friedrich is fully aware of the fact that constitutional government, operated on the basis of rational processes of responsibility, legality, and control, can be fully expounded only against the background of the opposite evidence of dictatorships. From the didactical viewpoint, it is a matter of personal taste, or of convenience

of the individual teacher, whether he give preference to Finer's arrangement of topics, which, so to speak, is more anatomical, while Dr. Friedrich's method is more synoptical. In practice, the two contributions will be found mutually supplementary.

In Part I, Dr. Friedrich opens his discussion with a forceful statement of "power as the focal point of modern political science." The reviewer may be permitted to remark here that, in his opinion, this thesis seems to over-rate the undoubtedly undeniable influence of authoritarian trends which, unfortunately, for the time being obfuscate the real issues behind the techniques of power, that is, the compelling forces of absolute values for which ultimately power techniques serve. The author himself, in contrasting constitutional government with the opportunistic methods of dictatorships, seems to gravitate towards similar absolute concepts, as shown in the ensuing chapters of Part I.

After an excellent survey of bureaucracy (Chapters II and III), the author discusses (in Chapters IV to VII) what he calls "objectives and techniques." Here he includes such heterogeneous topics as territorial expansion and trade, "reduction of external friction" (foreign relations and diplomacy), and "reduction of internal friction" (such as police, legislation, and judicial restraint and control). Some items of what in Continental general treatises on the state is embraced by the terms "aims and functions of the state" are discussed in this connection, such as security and prosperity, police, and administration proper. Particularly welcome, and, incidentally, very illustrative of the author's sociological method, is a study of the "military establishment," which, in similar treatises, is usually neglected.

In Part II, "Constitutionalizing Modern Government," the sequence of topics is more logical and convincing. It starts with a discussion of the making and amending of constitutions (Chapters VIII and IX). Room is found here for a well balanced treatment of revolutions, the crucial problem for the methodology of constitutional government, and also for the rôle of the plebiscite which evidently is as much a favorite topic of the author as of the reviewer. In the next chapter (X, "The Constitution as a Political Force"), which, in the reviewer's opinion, should be the center of gravity of any treatise on constitutional government, too scant importance is attributed to the problem of the bill of rights as the embodiment of its absolute values within the technical framework of the constitutional state. In fact, the notion of liberty is the very life-nerve of constitutional government if it is considered as the expression of metaphysical values and not merely as a set of accidental legal rules. A similar objection may be raised against the scholarly discussion of the separation of powers (in Chapter XI). Events of our own times demonstrate beyond doubt that the technical aspects of the doctrine are much

less important than its ethical implications for the relations between power and liberty. The next chapter (XII) deals very adequately with judicial review; while the chapter on federalism (XIII) appears perhaps somewhat perfunctory.

Of the highest interest is the following chapter on constitutional dictatorship (XIV). Here the author, prompted by contemporary experience and justly provoked by Herr Carl Schmitt's fallacious cleverness, has presented one of the most persuasive sections of his book, although, as will be shown at the end of this review, one of the main deficiencies of the whole treatise is here involved. In the concluding chapter of this part (XV, on responsibility)—which, in the reviewer's opinion, should have been placed in connection with the discussion of bureaucracy—another crucial problem of the modern state is approached, although it consists less in the control of the servants of the state than in the political control of the governments as correlative to political responsibility.

The third and by far the most voluminous part of the book contains, under the heading of "The Politics of Constitutional Systems," the mechanism of the representative technique in constitutional states, in particular electoral techniques (XVII), political parties (XVIII and XIX), the cabinet system (XX), the various aspects of parliamentary practices and procedure. It is specifically meritorious that the importance of the much misused and equally assailed deliberative function of representative bodies has been restated here; while, on the other hand, the author has well succeeded in conveying to the American reader a better understanding of the contributions of the German post-war school of Smend, Leibholz, and Wolff to the problems of integration, representation, and delegation. An excellent appendix on the press, as the "fourth estate," follows (Chapter XXIII). The next chapter (XXIV) contains a rather brief and stereotyped survey of pressure groups and representation of interests. It seems that a more profound treatment of the corporate state, based on the elaborate corporative jurisprudence of Italy, is badly needed. Even *Finer's* book on Mussolini (see review in this *REVIEW*, Vol. 30, p. 380) makes it evident that in this particular field much spade-work by unbiased foreign political scientists remains to be done. The book ends with a discussion of direct popular action (XXV), without, however, exhausting this most fascinating and important problem of organized mass democracy where the constitutional state has so much to gain from close observation of the techniques of dictatorial states.

Although in a volume of such vast extent and of such wealth of original remarks on controversial subjects many statements remain arguable, it does not seem appropriate to stress points of disagreement here. Yet two major objections cannot be suppressed. Dr. Friedrich's book, be-

cause or in spite of the mastery displayed by the author in expounding his material and conclusions, is neither a text-book of the customary type, designed, in the first place, for the student, nor a really systematized and comprehensive general treatise on the state. The student, in view of the synoptical method applied by the learned author, must possess already a very extensive knowledge of facts which frequently are rather more presupposed than actually presented, and at least one other text-book using the "country-by-country" method will be needed by the ordinary college student if he intends to benefit as he should from the mine of information contained in Dr. Friedrich's volume. For graduate students, the book is manifestly what was, for a long time, a *desideratum*. For this reason, unless one takes a very optimistic view as to the future intellectual development of the average college student, the book is probably more useful for the teacher of comparative government, and to a certain extent also for research. Perhaps this was intrinsically the aim of the author himself.

Another objection is more basic. In many respects, constitutional government corresponds no longer to what the author describes it to be. Everywhere constitutional government is in transition from parliamentary determination of political issues to the undisputed predominance of the executive, operating, even in the most thoroughly democratic countries, under discretionary powers which, very euphemistically, may be spoken of as "quasi-constitutional." Indicative of this trend—observable in every constitutional state without exception—are the events in the smaller democracies which more and more have become "disciplined," or even "authoritarian." It is regrettable that this book contains so little material on the new governmental techniques in Belgium, Switzerland, and particularly Czechoslovakia, although a vast literature is obtainable (e.g., Tingsten's book on the *pleins pouvoirs*). It seems to the reviewer that Dr. Friedrich has described more the pattern of *pre-crisis* constitutional government, while constitutional government of the liberal type, even in France, not to speak of Great Britain, belongs evidently to the past. The reviewer has found nothing of the momentous development of the new boards in England which so clearly indicate the turn to "syndical" techniques in government. The proper place for this discussion would have been the chapter on constitutional dictatorship, which, at least for the time being, characterizes constitutional government as such. In the future, the real issue of constitutional government will probably be the relationship between the discretionary powers of the appointed government and the rationalized control of the government by the governed. All democratic countries are at present in search of a workable formula which will guarantee the responsibility and the control of democratic leaders to and by the masses. It remains to be seen whether

the traditional concepts of legality and constitutionality can be reconciled with the realistic necessities of national leadership.

A vast bibliography, conveniently grouped at the end, satisfies many wishes of the advanced student and gives valuable hints even for those interested in further research. Needless to say, Dr. Friedrich's European background enables him to use much literature which is usually not referred to in books in this country. The reviewer notes, however, with some regret that the important doctrines of, for example, Carré de Malberg and his school and also other relevant French authors, are not mentioned.

As a whole, Dr. Friedrich's book is one of the most remarkable contributions in the field of comparative government in these last years; and, in the process of "continentalization" of political science in this country, it is indeed a landmark—an achievement for which the author may accept the sincere thanks of his colleagues, his students, and the politically interested public at large.

KARL LOEWENSTEIN.

Amherst College.

Essays in Political Science (in honor of W. W. Willoughby). EDITED BY JOHN MATHEWS AND JAMES HART. (Baltimore: The Johns Hopkins Press. 1937. Pp. viii, 364.)

This volume is a series of essays, written as a tribute to Professor Westel Woodbury Willoughby, who recently became professor emeritus after a long and distinguished service at Johns Hopkins University. The main body of the volume was contributed by his former students. One essay was written by his brother, W. F. Willoughby, and one by a former colleague, Professor W. W. Cook. In the opening chapter, Professor J. W. Garner gives an evaluation of the contributions of Professor Willoughby to political science. A bibliography of the chief writings of Professor Willoughby is appended. This shows not only the extent of his contributions to the literature of political science, but also the astonishing versatility of his interests in political theory, public law, American government and administration, and international relations.

To the student of today who is familiar with the wide range of courses in political science that are offered in American universities, and with the vast amount of literature that appears each year in that field, it may be somewhat surprising to realize that this development has taken place within the active life period of men still living. When Professor Willoughby began his teaching at Johns Hopkins, departments of political science offering opportunities for graduate study existed only at Columbia and Chicago. In a few other institutions, scattered courses in political science were given, usually under the auspices of other depart-

ments. The writings of Francis Lieber, Theodore Woolsey, John W. Burgess, and Woodrow Wilson were practically the only contributions to the literature of political science that had been made by men in academic life in this country. To the development of this field Professor Willoughby devoted his life. He was largely instrumental in divorcing political science from its dependency and establishing it as a recognized and important field of investigation and study. He was one of the founders of the American Political Science Association, writing its constitution and serving as its first secretary-treasurer and later as its president. He was active in launching the *AMERICAN POLITICAL SCIENCE REVIEW* and served as its managing editor for the first ten years of its existence. Professor Garner pays a deserved tribute to his work as teacher and author and to his services in public affairs.

The other essays in the volume cover a wide range of topics. In the field of public administration, W. F. Willoughby writes on "The Science of Public Administration" and A. C. Millspaugh on "Democracy and Administrative Organization." In political theory, H. W. Stoke deals with "The Paradox of Representative Government," E. P. Herring with "Political Parties and the Public Interest," and J. Mattern with "From Geopolitik to Political Relativism." Two essays are concerned with the scientific method in politics and law, one by M. E. Dimock on "Scientific Method and the Future of Political Science," one by W. W. Cook on "A Scientific Approach to Law." In constitutional and administrative law, Leon Sachs discusses the case of *Blackstone v. Miller* as a study in multiple taxation, and A. Langeluttig writes on bankruptcy. In international law, C. G. Fenwick discusses "Political Disputes in International Law"; C. W. Young, "Legal Aspects of the Lytton Report"; and H. W. Briggs, "The Punitive Nature of Damages in International Law."

As in the case of most volumes of this kind, the articles are somewhat uneven and their usefulness depends in large measure on the field in which the reader is interested. W. F. Willoughby makes a valuable analysis of the nature of the problems with which administration is concerned, and A. C. Millspaugh adds some interesting criticisms of the undemocratic tendencies in recent administrative organization. H. W. Stoke and E. P. Herring both point out the difficulties in present-day representative government, the danger of paralysis, and the need for placing the general interest above the interest of petty groups. Several essays urge a more scientific approach to the study of politics, the need of new classifications, greater use of material drawn from other sciences, and closer contact with the changes taking place in the modern world.

In general, the essays maintain a high standard of scholarship and form a valuable addition to the literature of political science, as well as a tribute to a beloved teacher.

RAYMOND G. GETTELL.

University of California.

A History of Political Theory. BY GEORGE H. SABINE. (New York: Henry Holt and Company. 1937. Pp. xvi, 797.)

Professor Sabine begins with the hypothesis that "theories of politics are themselves a part of politics." It is to be expected that mere antiquarians will take issue with the author on this point, and that those who say with Goethe that "the truth has long since been discovered" will find fault with the social relativism of which this hypothesis is an expression. For Professor Sabine maintains that, "taken as a whole, a political theory can hardly be said to be true," but that the "judgments of fact" and the "estimates of probability" which it contains, as well as the weighing of "logical compatibilities" which it involves, are affected by "valuations and predilections, personal and collective." This is not saying that these judgments and estimates may not prove to be, in some cases, "objectively true," or that a political theory is necessarily narrowly instrumental in the sense of having deliberately been made subservient to ulterior personal or collective purposes, but that it is "produced as a normal part of the social *milieu* in which politics itself has its being."

Others have thrown out hints to this effect before, but the present reviewer knows of no comprehensive history of political theory in which this basic proposition has been so consistently sustained and acted upon. In Professor Sabine's book, theories are always presented in the historical socio-political setting which conditioned them and with which they, in turn, interacted.

Since this work is more than a résumé of the more important political theories, the author's own "philosophical preferences" are of such an interest as to entitle them to more than a casual remark, even within the compass of a book review. Professor Sabine is an empirical positivist who concurs in the general results of Hume's criticism of the "intellectual confusion inherent in the system of natural law." Hume drew an antithesis "between reason in the formal sense, causal relations uniting matters of fact, and judgments of value or obligation," factors that had all been fused in the system of natural law. Professor Sabine maintains that "it is impossible by any logical operation to excogitate the truth of any allegation of fact, and neither logic nor fact implies a value." He extends this criticism to the Hegelian and Marxian dialectic, which perpetuated the confusion by again attempting to "bridge the gulf between reason, fact, and value." He points out that the Hegelian and Marxian varieties of "historical necessity" are no more capable of empirical verification than the "belief in rational self-evidence" which they displaced. As to value-judgments, "they appear to the author to be always reactions of human preference to some state of social and physical fact. . ."

In a review of a comprehensive work such as this (it encompasses, in its almost 800 pages, the history of Western political thought up to the

present time), space forbids the presentation of the customary "table of contents." In selecting theories for inclusion, the author obviously was guided by his original hypothesis, and not simply by considerations of space. In the opinion of this reviewer, the chapters on Aristotle, Hobbes, Hume, Hegel, and Marx are especially well done.

In view of what was said concerning the author's criticism of Hegel and Marx, a few words must be added to forestall a wrong impression. Although Professor Sabine places speculation about historical "necessity in the realm of "calculation of probabilities," he does not dismiss these prognoses off-hand but reserves judgment on some points, depending on time to show whether they are objectively right or wrong. Also, doubts concerning the objective truth of some of their conclusions do not prevent him from appreciating the fact that these theories may still be of great significance as philosophies of social action.

The book is so altogether satisfactory that one hesitates to criticise such a minor point as the tacit assumption which seems to pervade the discussion of Bodin, that the introduction of the idea of the *Rechtsstaat* and the attribution of sovereignty to it marked an advance in methodology. In spite of Bodin's confusion, he seems to have been on safer ground than some of his critics. For the doctrine of *governmental* sovereignty does not present the inherent difficulty from which the doctrine of *state* sovereignty suffers, namely, the problem of avoiding an antimony.

The book is the work of a mature scholar with analytical acumen and with a competence in general philosophy that are difficult to match. Moreover, it is written in a lucid and compact style, with frequent summaries that are models of conciseness. These qualities, as well as the bibliographical notes at the end of each chapter, should insure its favorable reception as a text-book. It is a text-book, to be sure, but a text-book with a difference.

HENRY JANZEN.

Hamilton College.

The Lasting Elements of Individualism. BY WILLIAM ERNEST HOCKING.
(New Haven: Yale University Press. 1937. Pp. xiv, 187.)

This volume includes a group of six lectures delivered at the University of Indiana. The ideas contained therein are not fully developed, and the result is the presentation of the materials for a much larger study than is here undertaken. The book can hardly be reviewed without incurring the danger of rearranging the materials. This might lead to conclusions not intended by the author, which would be unfair to him.

The thread of continuity which undoubtedly runs throughout the lectures is that "no nation can exist unless the idea of the nation finds an intelligent resonance in the minds of the individual citizens." Individual-

ism as a concept gained meaning as early as the fourteenth century, but not until after the Reformation did it attain political significance. The concept became imperishable in the thought of John Locke, whose individual not only was the bearer of rights but also was endowed with a moral sense. But the liberalism which has developed from this older concept of individualism has proved defective, chiefly because it could not alone achieve social unity and tended to cultivate the pernicious notion that rights can exist without correlative duties. The achievement of human freedom lies in the extension of the individual will by the creation of the state as the responsible agent of its members. That is not to say, however, that the individual will is submerged in that of the state. It continues to function as co-agent with the state, so that the deeds of the state are *ipso facto* the deeds of the citizen, the extrapolation of his will. The result is the co-agent state, which "is based on the unanimous action of free individuals."

This may all be very well, but the peril lies in the ease with which the individual conscience may be brought to succumb to the purposes of the state. In a democracy, the larger issues are fairly clear and the citizen is asked to consent to more or less definite proposals. Moreover, the representatives of the people must periodically return to the electorate to obtain a fresh mandate, even though they do their work well. Minorities have the opportunity to be heard and to make their influence felt in popular elections. We shall doubtless continue to prefer the democratic state to one which purports to bear and to interpret the individual conscience.

WILLIAM S. CARPENTER.

Princeton University.

Les Idées traditionnalistes en France de Rivarol à Charles Maurras. BY ALFONSE V. ROCHE. (Urbana: University of Illinois Press. 1937. Pp. 235.)

This is primarily a work of literary criticism. Its chief importance and interest for students of political science derive from the fact that the work deals with writers who cannot be ignored in connection with modern French politics and political thought. These writers fall into two categories. The second consists of certain twentieth and late nineteenth century writers—especially Charles Maurras—who have been the recognized spokesmen for a certain section of opinion of the Right. The first category consists of writers recognized by those of the second to be their intellectual ancestors. Though modern traditionalists, as Mr. Roche emphasizes with some impatience, claim to be supported by parts of the writings of numerous authors for whose essential views and positions they have nothing but contempt, they cite principally names like Rivarol, de

Maistre, de Bonald, Comte, Taine, Renan, Fustel de Coulanges, Le Play, and La Tour du Pin Chambly de la Charce. Summary accounts of the views of all of these, as well as of those of numerous lesser lights, are included by the author. He gives, in respect of the moderns, three chapters to M. Charles Maurras, and treats of various others, more especially Bourget, Barrès, Bazin, and Bordeaux. The transition from the one group to the other is made through two chapters on the literary aspects of Regionalism, particularly in Provence and Brittany, with a definite preference for Mistral.

Mr. Roche possesses a marked gift for concise exposition. In a style distinguished by unusual clarity, he succeeds in setting out succinctly the essence extracted from the thought of the several authors treated. At the same time, inasmuch as a very large number of persons come in for consideration, even high literary gifts cannot avoid, in the circumstances, some of the appearances and characteristics of an inventory. The explanation is possibly to be found in the conventional requirements of an academic thesis. It is perhaps not unfair to note that a volume of two hundred pages, the printing of which, incidentally, is otherwise exceptionally attractive, contains nearly nine hundred footnotes. The question presents itself whether the essay would not have been more effective if, instead of setting out the principal traits of one writer after another, it had attempted a full account of the more important "traditionalist ideas," referring, in connection with them, to various writers where necessary or desirable. Mr. Roche has manifestly read so widely and assimilated so thoroughly that he could undoubtedly have succeeded in such an attempt. A book of much merit would possibly have been even better.

R. K. GOOCH.

University of Virginia.

The Third Reich. BY HENRI LICHTENBERGER. (New York: The Greystons Press. 1937. Pp. 392.)

To write on Soviet Russia, Fascist Italy, and National Socialist Germany is a difficult and thankless task. The popular subjective approach leads to a distorted presentation of the subject, giving a picture either too favorable or too damaging to the systems presented. Complete objectivity, even if possible, does not appeal to the general reader.

Lichtenberger's *The Third Reich* apparently is designed to steer a middle course, with studious intent to be fair to the National Socialist régime. The author is not committed to any thesis concerning the merits or baseness of National Socialist ideology and practice, nor does he evade conclusions based upon a scholarly study of the subject. Lichtenberger has the advantage of a thorough knowledge of the Germany preceding the Third Reich, the Germany of Kant, of Goethe, of Nietzsche, of Wil-

liam II, and of the Weimar Republic. His previous writings testify to that. It is on the background of this knowledge that he presents his picture of the Germany of today under the following nine headings: The Rise of National Socialism; National Socialism in Power; Foreign Policy; The Myth of Race; Spartanism; The Religious Problem; Agricultural and Industrial Organization; The German Economic System; A Frenchman Looks at Nazi Germany.

The system of treatment is that of stating as fairly as possible the ideology of National Socialism as found in the writings and utterances of National Socialist spokesmen and in the laws and decrees through which that ideology is transformed into reality in the institutions and practices for the reorganization of the political, racial, economic, social, and cultural life of the nation. This statement is followed by an impassionate enumeration of conflicting interpretations of friends and foes of the régime. Lichtenberger does not assume the position of arbiter between these conflicting opinions. He does not hesitate to admit that he does not know where the truth is to be found. Concerning his treatment of the economic structure of the National Socialist régime, he frankly concedes that he does not possess the technical knowledge to enter more deeply into the subject. He deserves respect rather than criticism for this caution. Like the Italian corporate system, the National Socialist structure of employer and labor organization, as well as the parallel hierarchy of the industrial associations, is still too much in flux to permit authoritative treatment.

In the first eight sections, Lichtenberger speaks as the scholar, the spectator from somewhere in no man's land. In the last section, he is the Frenchman, or rather the spokesman of "the French" in his and their reaction to National Socialist ideas and practices. We French, he says, "float about amidst thousands of conflicting sentiments ranging from decided horror through mistrust and uneasiness up to curiosity mixed with sympathy and regret that we do not have a 'strong man' like Hitler in France." There is general grief over "the deliberate intolerance proclaimed by the Nazis," over the "appeal they make to the fanaticism of the masses" and the "determined brutality of the measures whereby they seek to impose their power." The French are not particularly shocked by National Socialist theory. To be sure, they reject the extremes of their racial doctrines, just as they condemn the practices resulting from these doctrines. Hitler's disdain of intellectuals and esthetes finds sympathizers in France. The French look with admiration upon the unquestionable growth of social solidarity accomplished through labor camps, youth organizations, etc., though they would not accept the degree and extent of regimentation necessary to accomplish the desired result. Spartanism is something of which France, too, has need. For Hitler's foreign policy,

France has understanding. His good faith in asserting his peaceful intention, France is ready, or should be willing, to accept in spite of his contrary views expressed in *Mein Kampf*, which have never been expressly disavowed. To be sure, Germany, the "Volk ohne Raum," may insist upon expansion. Germany may demand from England and France the return of her colonies, or a free hand in the East. France must be friendly, cautious, ready for all events; she must wait and see!

Having chosen the moderate middle course, Lichtenberger has been forced to blunt the sharp edges of his subject-matter in both directions. He admits the inevitableness of the National Socialist régime without extolling the extremes of its ideology. On the other hand, he avoids giving offense to National Socialist Germany by excluding from his description details of the excesses in practice. Perhaps he is conscious of the difference between the ideals of the French Revolution and the excesses practiced by the revolutionists seeking to realize their ideals.

The copious Appendix should be read in connection with the corresponding subject-matter of the book. Failure to do this might place some of the documents in a false light, as for instance "The Twenty-five Theses of the German Religion."

JOHANNES MATTERN.

The Johns Hopkins University.

The Spirit and Structure of German Fascism. BY ROBERT A. BRADY. (New York: The Viking Press. 1937. Pp. xix, 420.)

Germany; The Last Four Years. BY GERMANICUS. (Boston and New York: Houghton Mifflin Company. 1937. Pp. viii, 116.)

The Renaissance of Democracy. BY G. S. GRACCHUS. (New York: Pegasus Publishing Company. 1937. Pp. 153.)

The democratic dogma was born a creed of aggression, and therein lay primarily its strength. Once established, it was never seriously challenged. As it seemed to need no armature of defense, it grew unwary and self-contained. Has it become too unelastic to hold its ground against a twentieth-century robot claiming to out-democratize democracy? Certainly those who currently articulate their fears for what they cherish as free institutions are not an optimistic lot. And, paradoxically enough, their cardinal contribution thus far has been to build up the menace of fascism to monstrous proportions and to spread fright among their own ranks. As a result, efforts to strengthen democracy's governmental equipment and to intensify its social effectiveness are halted by the cry of "dictatorship." This is not surrender; it is suicide. If the idea of democracy should be degraded to unbending *status-quo*-ism, political, social, and economic, it would cease by itself to be a living force. But the same

effect might be achieved should the prevailing indiscriminate use of the term "fascism" turn democracy into a hypochondriac. In this respect, careful analyses of totalitarian régimes promise to be both a prophylactic and a curative.

Professor Brady's investigation of the National Socialist state is neither of these, for its *Leitmotiv*, ringing forth from every chapter, is inspired by the familiar Marxist point of view: the difference between the Third Reich and capitalist countries such as the United States lies in the fact alone that the former is "overtly fascist" (p. 384). But in the author's opinion the border-line has already become fluent; he refers in this connection, among others, to the "program of the N. R. A." and to "Tugwell's *Industry Comes of Age*." As should be clear from the two examples, Professor Brady's position leaves him little option in his general conclusions. In fact, he offers only one—that the people of the United States should return all wealth to those who built it. "But it will not come to them as a 'gift'; they must learn that the only solution to recovery of their heritage lies within themselves" (p. 401). As to more specific observations, the study suggests that fascism, in the phrase of the foreword written by Professor Harold J. Laski, "is nothing but monopoly capitalism imposing its will on those masses whom it has deliberately transformed into slaves." In a book so top-heavy with fairly orthodox theses, it is, however, exceptional, and gratifying to students of modern government, that the author has not shunned detail in his discussion of spiritual and economic coördination under the swastika: the *Gleichschaltung* of all intellectual energies; means and methods of opinion management; organization of labor; the incorporation of youth and women's activities; regulation of agriculture and industry ("businessmen, the born élite, should rule"); cartels, monopolies, and fair competition. The closing chapter beholds the "looming shadow of fascism over the world." That, on the whole, National Socialism emerges from this inquiry considerably more homogeneous and consistent in itself, and much more in step with capitalist world development than it actually is, may have its explanation also in the casualness of documentation.

Unlike many bankers, *The Banker*, organ of British banking, displays sedate restraint in its espousal of *laissez faire*. But its recent examination of the economic results of National Socialism (by "Germanicus," here offered in book form), far from supporting Professor Brady's conception of the "born élite," contrasts sharply the interests of the "upper classes" (pp. 38, 44) with the "far-reaching process of Socialization" (p. 37) which German business is undergoing. Livelier and less encyclopaedic than the well-known reports of the Department of Overseas Trade, the exposition offered by *The Banker* is at its best when reaffirming soberly the obvious, less convincing in its use of figures, and occasionally capricious in particu-

lars. Its chief argument is plain: Germany's troubles "are, for the most part, the result of rearmament" (p. 74), which has created "a considerable international nuisance value" (p. 91). But England, "when confronted by German blackmail" (p. 94), should make no concessions, financial or territorial. The joke of it is, of course; that British rearmament has made this reasoning feasible.

The Banker's "Germanicus," according to the Introduction, owes his insight to a deeply anonymous group of "about a dozen men of some achievement in Germany's military, financial, and industrial affairs," several still holding "high posts in their country" and therefore risking their necks. Gracchus, in his "political essay on the philosophy of solidarism," introduces himself less romantically as one who saw the downfall of democracy and the rise of fascism in European countries, and "being an economist," was "able to assume a critical standpoint." The outcome is this book, "written in popular form," as the publishers say justly. The first part surveys the totalitarian state, the second presents the collapse of individualism and the ascendancy of the new "democracy of solidarism." The disintegration of democracy must be attributed to "the misunderstood and erroneous interpretation" of the principle of *laissez faire* (p. 139). Fortunately, solidarism is already with us—"every piece of [New Deal] legislation represents another pillar in the construction of the temple of American Democracy" (p. 147). And, mind you, "posterity itself will judge the service that the Democratic party of the United States of America and the administration of Franklin D. Roosevelt have rendered to civilization and mankind by firmly reestablishing true Democracy as the cornerstone of American government" (p. 146).

FRITZ MORSTEIN MARX.

Harvard University.

The Revolution Betrayed; What Is the Soviet Union and Where Is It Going? BY LEON TROTSKY. Translated by Max Eastman. (New York: Doubleday, Doran, and Company, Inc. 1937. Pp. vii, 308.)

To Trotsky, "the Soviet Union is a contradictory society halfway between capitalism and socialism," dominated by a selfish privilege-seeking bureaucracy. In the early days of the revolution, the bureaucracy was kept in check by the party, but this control disappeared when Stalin subjected the party to its leaders and merged the latter into the officialdom of the state. Thus was created the totalitarian state in which the chief glory of man is "personal loyalty to the leader and unconditional obedience." The prohibition of oppositional factions, which were always prevalent under Lenin, resulted "in a bureaucratic impunity which has become the source of all kinds of wantonness and corruption." To overthrow this

bureaucratic autocracy is the task of the Soviet section of the Fourth International.

Trotsky is especially vehement in his denunciation of Stalin's abandonment of world revolution for the "theory of socialism in one country." This not only constitutes treachery to the cause of socialism, but is bad for Russia as well. The best defense for the Soviet Union lies not in peace pacts, treaties, or even the army, but in strengthening the position of the proletarian and colonial peoples throughout the world. If the enemy is not paralyzed by revolution, "imperialism will sweep away the régime which issued from the October revolution, [for] in a technical, economic, and military sense, imperialism is incomparably more strong." Peace is only temporary. "The power which is restraining for the time being the fury of war is not the League of Nations, not mutual security pacts, not pacifist referendums, but solely and only the self-protective fear of the ruling classes before the revolution."

The new constitution with its façade of democratic forms, the limitations placed on abortions, the increased importance of family ties, piece-work and Stakhanovism, the provision of private gardens, cows, and chickens for the members of the collective farms—all are condemned as further evidences of the betrayal of the cause of the socialist revolution and a return to bourgeois principles. To save this cause, Trotsky proclaims the need of a new purely political revolution, a proclamation which in turn lends convenient justification for Stalin's recent ruthless use of the firing squad.

Max Eastman has provided an extraordinarily fine translation. The book sparkles with epigrams pronounced with dogmatic authority. Charging that Stalin's "socialist system of money and prices was developed only after the twilight of inflationist illusions," Trotsky observes: "The owl of wisdom flies, as is well known, after sunset." This statement at times seems equally applicable to many of Trotsky's criticisms, and he is indeed loath to heed his own wise observation: "If a theory proves mistaken, we must revise it or fill out its gaps." The mistakes and omissions of the present régime would not be so glaring if more consideration were given to the opposition forces—external as well as internal—which have played an important part in shaping the course of events.

E. C. HELMREICH.

Bowdoin College.

The Government of Switzerland. BY WILLIAM E. RAPPARD. (New York: D. Van Nostrand Company. 1936. Pp. ix, 164.)

As a volume in "The Governments of Modern Europe" series, this book complies fully with the general purposes set forth by the publishers. It is "a complete treatment of a single government, presented not only

from the political viewpoint, but also with a broad background of other knowledge—geographical, historical, ethnological, and economic." Professor Rappard is concise, factual, and statistical, to a degree which makes his work more suitable as a reference than as a text for classroom use. On the other hand, it has a distinct appeal for American readers, because the author knows his United States almost as well as he knows his Switzerland.

Professor Rappard does not hold so high an opinion of Swiss *Lands-gemeinden* as do most foreign observers. Certainly, however, the comparison he draws between them and a football crowd does too much honor to the latter. Commenting on the failure of the extremely democratic Swiss to enfranchise women, the author first notes that Switzerland is neither an aristocratic nor a proletarian country, being governed by the lower middle class, and adds: "Now all history and all geography show that woman comes to her political rights in the drawing room and in the workshop before she does in the kitchen." It is a curious fact, but quite typical of Swiss dislike of hero worship, that the name of only one living Swiss statesman is mentioned—and that quite casually—in Professor Rappard's pages.

While all the chapters of *The Government of Switzerland* are thorough and workmanlike, the three devoted in conclusion to Political Parties, Domestic Policies, and Foreign Policies are particularly interesting. In spite of occasional sensational stories about the Swiss *Fronten* which appear in our newspapers, Professor Rappard is not greatly impressed by the alleged progress of fascist ideas among his compatriots. "The present nationalistic, dictatorial, and totalitarian régimes in Germany and Italy, whose aspirations most violently offend against the Swiss ideals of coöperation, freedom, and democracy, have still further tended to fortify the desire to preserve their own national independence."

Admitting the progress of socialistic ideas in the Alpine republic, Professor Rappard remarks with a certain acerbity that the 1935 platform of that party "cannot but strike the impartial observer as shockingly demagogical, distressingly bureaucratic, and bafflingly utopian." Barring war or the dominance of personal preferences, his final conclusion is that "in Switzerland as in the other surviving liberal democracies, political individualism will in the end prevail over all opposing influences."

ROBERT C. BROOKS.

Swarthmore College.

Byrokacie. BY JAN MERTL. (Prague: Orbis Publishing Company. 1937. Pp. 265.)

The problem of bureaucracy in Central Europe is fundamentally different from that in the United States and England. For this reason, as

well as for the obvious ability of the author, a young Czechoslovak social scientist, we welcome this theoretical and practical study of bureaucracy from the socio-political viewpoint. It is concerned primarily with analysis of the main relations between the state and the leading bureaucratic elements.

In order to determine the comparative characteristics of the Czechoslovak bureaucratic system, Dr. Mertl surveys briefly the problems of bureaucracy in England, the United States, and France, "as each of these democratic states represents a certain outlined type of modern democracy." We regret only that we find here no comparison of the bureaucracies of contemporary democratic states with those of modern dictatorships.

The most original and interesting sections of the book are, however, those dealing with the Czechoslovak system. We find here the historical background, with the author tracing the development of bureaucracy in the old Austro-Hungarian Monarchy and showing the post-war reaction and resentment against that institution due to identification in the popular mind of everything bureaucratic with the overthrown Empire. An additional problem was created by the fact that the new Czechoslovak Republic had to employ numerous leading bureaucrats, formerly employed by Vienna, since no other trained personnel was available. But the political system of Czechoslovakia has favored the most extensive use of bureaucracy, with the result not only that there is today an excessive number of civil servants, but that the service is still (although to a somewhat smaller degree than formerly) considered one of the most desirable careers. The author points out the dependence of civil service promotions on the influence of various political parties, accentuated by the circumstance that several executive departments have been headed only by ministers drawn from given parties, e.g., the Ministry of Agriculture by Agrarian ministers. A definite curse of the whole system is the belief of the people in the so-called "interventions." Many bureaucrats refuse to decide cases simply because they fear political influences. On the other hand, the petitioner has no way of forcing a decision, and has learned that the most effective way of getting something accomplished is to ask a deputy to "intervene" for him. Although such action is unconstitutional, it is one of the most strongly established political practices in Czechoslovakia. Equally interesting are the remarks of the author on attempts to reform the system.

Dr. Mertl's conclusions also deserve to be noticed. Bureaucracy forms a part of the state apparatus, and its structure and evolution are determined by the structure and evolution of the political element of the state. In the democratic state, this development depends on (1) what kind of bureaucracy existed in the state before the introduction of its democratic

system, and (2) what type of democratic government was introduced. The importance of bureaucracy depends upon the degree to which a state intervenes in the life of society, and the character of bureaucracy depends to a large extent upon the social and educational background of its individuals. No democratic state can do without a bureaucratic system.

An extensive list of works in various languages is included, although several important titles have been omitted. Altogether, the study is the best and most up-to-date upon the subject as yet published in Central Europe.

JOSEPH S. ROUCEK.

New York University.

Neutrality for the United States. BY EDWIN M. BORCHARD AND WILLIAM POTTER LAGE. (New Haven: Yale University Press. 1937. Pp. xi, 380.)

Neutrality means not a partial concession of rights to one side, but an impartial enforcement of rights as against both sides. Of this fact the authors of the present volume remind us over and over. Throughout the volume we find clear and forceful views well fortified with illustrative material showing careful and considered observation.

During the eventful years 1914-17, our government was neutral in theory but unneutral in practice. The Wilson Administration favored the Allied cause, as did also the American ambassador in London and Col. E. M. House, who was Wilson's closest adviser. Secretary of State William Jennings Bryan stood alone as the real neutral, who believed in warning our citizens not to travel on belligerent merchant ships, who desired an embargo on munitions, who wanted a prohibition on war loans, and who now looms larger as statesman and prophet, since Congress has just enacted his ideas into the neutrality law of 1937.

The present volume is divided into three parts. The first four chapters constitute the introductory portion in which the reader will find (1) a general explanation of the rules of neutrality; (2) important precedents in the history of American neutrality since Washington's time; (3) a brief record of the unneutral steps taken by Wilson during the period 1914-17; (4) a discussion of the post-war efforts to discredit the whole concept of neutrality and to exalt the idea of all nations coöperating to stop aggressors.

In Part II, the reader finds much the larger portion of the volume's contents. Here the title might well be "Unneutrality" for the United States. We find a careful recording of the numerous manifestations of that unneutrality which helped to steer the United States into the conflict. The Administration tolerated guns on British merchantmen, but not on German ships leaving American harbors. It wrote soft notes of protest to

Great Britain, but delivered what were really ultimatums to Germany. It protested submarine warfare against those civilians who were found on armed and unarmed belligerent merchantmen, but it endured cruiser warfare which was aimed to starve civilian peoples on land. It assumed that submarines, though warships, had no lawful right to visit and search merchant ships even when the latter were armed; for the latter had the right to resist search. But it also assumed that armed merchantmen, though not warships, had a right to fire on submarines. Merchantmen were armed in defense, so it was said; while submarines were the aggressors.

Freedom of the seas was a proper battle-cry as against the Germans, but whenever it hit the British navy it was to be mentioned softly and sparingly. (Today it is mentioned even more sparingly because, no doubt, it recalls to some minds the questionable war against Germany, and suggests to others the possibility of trouble with Great Britain.)

When writing notes to Germany, the Wilson Administration would "accept no single abatement of right, lest the whole fabric of international law might crumble." But when writing to Great Britain, abatements of right were accepted, and the whole fine fabric of international law did crumble. Congress wanted to warn our citizens against travelling on belligerent merchantmen, but the Administration was afraid that this would weaken its stand in the *Lusitania* debate. According to the authors, "the persistent refusal of President Wilson to see that there was a relation between British irregularities and German submarine warfare is probably the crux of American involvement."

The authors have well marshalled their facts so as to give support to all that they have to say. The reviewer joins them in wondering whether the submarine and the airplane may not be the counterweight to British objections to abolishing war on enemy commerce, not to omit war on neutral commerce also. (Must we wait for some future fight-to-the-finish in the Atlantic, while the American navy and merchant marine withdraw to a safe distance to await the outcome?) Today, many are wondering also why America ever abandoned her neutrality in 1917, when northern neutrals in Europe suffered much more severely, and yet were able to remain outside the struggle.

Part III consists of four chapters which reveal the many post-war attacks upon the doctrine of neutrality itself. These are for the most part made in America, although some are made abroad for American consumption. They are made by those who offer the Kellogg Pact as a substitute for the League, and who want that pact implemented so as to bring America into coöperation with the League in applying sanctions. They are made by those who, in other words, advocate collective security through consultative pacts, arms embargo pacts, or even pacific blockade

pacts—all directed at aggressors. At the close of this part comes a clear discussion of the unneutral features of our so-called neutrality legislation, just passed.

The volume as a whole is admirably written. It is well proportioned, except perhaps the introductory part, which could be reduced almost by half. The text is convincing and the references exhaustive. The tone is critical, but in no sense abusive or impertinent. The treatment is dignified throughout. In short, the volume is one which renders a great national service. It should be read by all who sincerely desire that no future Administration may be so poorly advised and so feebly represented abroad when war breaks out as was the Wilson Administration, whose slips caused us to enter the great European war. Today, the neutrality detractors appear to be in retreat; but they are no doubt preparing for further assaults on the law and policy of neutrality.

EARL WILLIS CRECRAFT.

University of Akron.

The United States in World Affairs; An Account of American Foreign Relations, 1936. BY WHITNEY H. SHEPARDSON, IN COLLABORATION WITH WILLIAM O. SCROGGS. (New York and London: Harper and Brothers, 1937. Pp. viii, 312.)

During the last few years, the peoples of the world have lived from crisis to crisis. They have faced the almost constant threat of war from without if not revolution from within. Acute economic distress has brought the inevitable crop of demagogues and dictators, with their promises and demands for bread and power. It has been a period of confusion and chaos. The year 1936, surveyed in this latest "first draft of history," sponsored by the Council on Foreign Relations, was similar to those immediately preceding it in that it marked fresh triumphs for the fascist dictators, a further crumbling of the system of collective security, and as a resultant, a feverish national armament race by all of the Great Powers in preparation for the "next war." Thus, on Armistice Day, 1936, the world's armaments had already far surpassed those with which in 1914 the Powers began the "war to end war," and as the scramble for unilateral security developed, fear and fatalism grew. War, it was widely held, might be delayed; it could not ultimately be avoided.

In all this the United States was more than a curious spectator. There was a real and widespread uneasiness that another World War might well draw us in as it had in 1917, and a consensus of opinion that every effort must be made in advance to assure our neutrality. The policy of the Roosevelt Administration at the outbreak of the Italo-Ethiopian war, as well as the Neutrality Act enacted in August, 1935, reflected this consensus. The government gave the League of Nations its moral support

and sought by means of an embargo on the export of arms, ammunition, and implements of war, and discouragement of American business men from trading with the belligerents, to contribute toward the localization and speedy termination of the conflict. When the League imposed sanctions against Italy, it also sought, though without much success, to have American oil, copper, and steel interests forego the opportunity for increased profits afforded by additional exports abroad for war purposes. The Neutrality Act of February, 1936, extended the temporary legislation of 1935, and added amendments calculated to isolate the United States still further from warring nations. The record of 1936 reveals, however, that the government of the United States could not be accused of having merely a hermit outlook on the world. In addition to renewed effort for naval limitation, President Roosevelt and Secretary Hull sought with some success to strengthen the peace system of the Western Hemisphere, and, in the economic field, to open trade doors in all parts of the world by means of reciprocal trade agreements.

The present volume is to be commended both for its style and content. Care and discrimination have been used in the selection of the events recorded, and in nearly every instance the interpretations offered and the opinions expressed seem at this writing to be unassailable.

FRANK M. RUSSELL.

University of California.

Raw Materials in Peace and War. BY EUGENE STALEY. (New York: Council on Foreign Relations. 1937. Pp. 326.)

Representing an analysis of the "effects of the unequal distribution of basic commodities on world trade, movements of capital, military preparedness, and international security," this excellent study was prepared as a report for the tenth session of the International Studies Conference which met at Paris on June 28, 1931. Its preparation was under the direction of a sub-committee "on raw materials and markets as they affect the problem of peaceful change," appointed by the American Coördinating Committee for International Studies. Professor Charles K. Leith served as chairman of the sub-committee, with Professor Eugene Staley as *rapporteur*, the other members being Edwin F. Gay, Frank D. Graham, Alvin H. Hansen, E. G. Nourse, and Jacob Viner. While the sub-committee as a whole participated in mapping out the general plan of the work and subsequently contributed suggestions and criticisms, the *rapporteur* was responsible for the collection of the material and the writing of the text. Although his book contains nothing particularly new on the factual side of the question, it makes a distinctive contribution in the field of international relations through the excellent coördination and

arrangement of available data on the problem of raw materials in relation to peace and war.

The study itself is divided into three parts, together with an appendix. Part I, entitled "Introduction," comprises two chapters, one defining the raw materials problem itself and the second containing an excellent summary of the position of the United States as the world's largest consumer and producer of essential commodities. Part II, entitled "Raw Materials Problem Occasioned by the Menace of War," likewise consists of two chapters, the first dealing with "The War-time Significance of Raw Materials," and the second being entitled "United States Policies: War-time." The latter deals primarily with the relation of America's unexcelled raw material position to its past, present, and future neutrality policies.

Part III, devoted to "The Raw Materials Problem Under Peaceful Conditions," includes Chapters 5-12 inclusive and forms three-quarters of the volume. As in the other two parts, the relation of American policies to the problem of raw materials receives primary emphasis. Chapters 5, 6, 7, and 9, which are concerned primarily with the uses and abuses of economic nationalism, contain a shattering indictment of the prevailing trade and financial policies of nations. Chapters 8 and 10, which deal respectively with the trade and the investment policies of the United States, again serve to illustrate in dramatic fashion the dominant rôle played by this country in world commerce and finance. Chapters 11 and 12, which are concerned with "the procedure for the peaceful solution of the raw materials problem," not only state the grievances to be met in prevailing trade and investment policies, but also suggest the possible methods of meeting them.

The Appendix, which is unusually valuable for purposes of reference, is divided into three sections. In Section A, the important raw materials of industry and their chief uses are noted. In Section B, there is indicated, through the medium of a carefully prepared outline, the various degrees of monopoly power which may be exercised with relation to specific commodities. In Section C, there is a most useful summary of the raw-material-control schemes in different commodities, with aluminum, coffee, cotton, copper, mercury, molybdenum, nickel, petroleum, potash, rubber, and tin of primary concern.

Although it is impossible, within the confines of a brief review, to include any factual material, certain of the conclusions reached by Professor Staley, as presented in Chapter 13, should be noted. While admitting that the international raw material problem is primarily an armaments problem, he emphasizes the fact that "under conditions in which nations could feel reasonably safe against war, there is no reason to think that raw material needs and policies would themselves produce conflicts

unsolvable by peaceful means." Among the peace-time practices of nations productive of war-time fears in relation to raw materials, economic nationalism and the abuse of monopoly power receive their just indictments.

The peaceful solution of the international raw materials problem, according to the author, calls for procedures of three types: (1) "measures to establish collective security against war, so that nations can regard raw materials in some other light than as armaments; (2) measures to reduce economic nationalism, so that it will not be necessary for nations to have political control over raw material sources or markets in order to be sure of access to them in time of peace; (3) measures to meet specific raw material problems that give rise to friction: problems of monopoly, of control schemes, of access to raw material resources for purposes of exploitation, of protection to alien investors and enterprises, and of protection to the countries where they undertake operations.

In the realization of the above procedures, Professor Staley wisely points out that "Great Britain and the United States," who "control the largest share of the world's raw material resources . . .," together could do much to make mineral and other raw material sanctions effective instruments in support of a collective system, and they could lead effectively in removing fears of other countries regarding access to raw material supplies or abuse of monopoly power in time of peace. "No single nation," he concludes, "will have greater influence in these questions than the United States itself."

BROOKS EMENY.

Western Reserve University.

Economic Planning and International Order. BY LIONEL ROBBINS. (London: Macmillan and Company, Ltd. 1937. Pp. xv, 330.)

Every page of this book-length essay in political economy bristles with challenges; every paragraph either scores a hit for the author's thesis or lays him open to the thrusts of an equally subtle opponent. Robbins is no tyro. He is armed with the invincible weapon of classical economics, which he understands thoroughly and uses with infinite ingenuity and consummate skill.

Undoubtedly disgusted with the modern emphasis on "planning," he proceeds to analyze different types of "planning" and to test them by their effect upon the international community as a whole. Defining planning as the "collective control or supersession of private activities of production and exchange," he distinguishes three classes or types: (1) independent national planning; (2) proposals for international controls of particular sections of the economic field; and (3) complete international planning on both socialist and liberal lines.

Asserting under the first heading that "our age is an age of independent national planning," he critically examines the chief devices now employed by national authorities—tariffs, subsidies, control of production and investment, trade controls, manipulation of foreign exchanges, and restrictions on migration. One by one, he shows these to be destructive of trade, wasteful in the use of men and resources; and the final result of all to be productive of instability, friction, and war.

International planning of particular kinds of economic activity—particular industries, trade channels, and conditions of labor—fares no better in the face of his careful attack. These devices restrict production, stereotype conditions in favor of high-cost producers, breed corruption because of the tie-up with government, create resistance to change, and subject the welfare of the whole community to the selfish interests of a few favored groups.

Complete international planning such as is envisaged under world socialism is "not yet practical politics;" but assuming for his argument that it is, the author proceeds to demonstrate that without the yardstick of the cost and price mechanism of the free market (repugnant and impossible to communist philosophy), the economic satisfaction of wants cannot be achieved.

Concluding with a statement of the essentials of the liberal system—the familiar orthodox theory of classical economics, with apologies for its contradictions and shortcomings—Robbins once more affirms the superiority of a system which he declares "has never yet had a full chance", but which many others, as competent as he, will stoutly maintain has been tried and found wanting. The author's studied attempt to establish the first two categories as types of "economic planning," and then dispose of them by holding them against the classical theory, will be sharply questioned by many readers. What Robbins in these cases calls "planning" looks too much like the reprehensible manifestations of the classical ideal in actual practice.

GEORGE H. E. SMITH.

Yale University.

Twenty-five Years of the Chinese Republic. ANON. (Nanking: International Relations Committee, 18 Honan Road. 1937. Pp. 211.)

Chiang Kai-shek und die Regierung der Kuomintang in China. BY GUSTAV AMANN. (Heidelberg and Berlin: Kurt Vowinkel Verlag. 1936. Pp. viii, 240.)

These two recent works on political China present a few interesting resemblances and many striking differences. Both deal with the immediate past; both are friendly to Chiang Kai-shek and unfriendly to the

Left; both present points of view with which Americans may be expected to differ; both contain factual information which is not available elsewhere; and both are sequels, in a sense, to preceding works. The Chinese compilation, for which no editor or author is given (the prefator being a Mr. Kan-li Kiang) supplements M.T.Z. Tyau's *Two Years of Nationalist China* (Shanghai, 1930). Herr Amann's work follows his earlier *Sun Yatsens Vermächtnis* (Heidelberg and Berlin, 1928; English translation, *The Legacy of Sun Yat-sen*, New York and Montreal, 1929) in giving a chronicle and interpretation of the years 1927-33, taking up the story where the previous work left off. The chief difference between the books arises from Amann's emphasis on politics and personality and the Chinese stress on forms and offices.

Among the contributors to *Twenty-Five Years of the Chinese Republic* are Chiang Kai-shek, who writes on unification and reconstruction; Chu Cheng, president of the Judicial Yuan, on the judiciary; and the following on their respective fields—Sun Fo, president of the Legislative Yuan; Tai Chi-t'ao, president of the Examination Yuan; Yü Yu-jen, president of the Control (censoral) Yuan; H. H. K'ung, minister of finance; Wang Shih-chieh, minister of education; J. Heng Liu, director-general of the National Health Administration. Chiang Tso-pin, minister of the interior, contributes an informed article on local self-government; and Messrs. Fang Chi, Li Ti-tsun, and an anonymous contributor write on party principles, foreign relations, and national economic reconstruction. The author knows of no other work on Chinese government so studded with distinguished names, and from which so much might be expected. Unfortunately, it is the Chinese custom, as noted by Lin Yu-tang, for officials to rely quite heavily on ghost-writers, and to prefer literary interest to positive statement. Much of the work is mere repetition of the stylized formulae of official praise and innocently undisguised propaganda.

There is a good deal of valuable secondary information, although the major problems of present-day China can be gauged only by indirection. There is nothing about military affairs, little on the land problem, nothing on the de facto position of the National Government; and the Japanese invasions are pussyfooted. Chiang Kai-shek's statement, "At present communism is no more a real menace to China" (p. 3), may be accepted, but with an unintended significance. The volume is magnificently bound and well illustrated, but the title page is on the fly-leaf, the pagination starts four times, in accordance with modern Chinese preference, and the book suffers occasionally from a lack of editorial supervision and proof-reading.

Gustav Amann is a German engineer long resident in China, who has moved freely in Nationalist circles. His work treats the years from the founding of the Nanking government to the conquest of Jehol (1928-33)

in chronological sequence. His is the most detailed and comprehensive account of this period now available in a European language. He is at his best in describing the cliques and personalities heading them in Nationalist China (e.g., the mention of Tan Yen-kai, p. 83) and in interpreting the social and ideological conflicts between China, Japan, and the West. His generalizations are challenging and frequently brilliant, but his point of view is blurred in focus by his equal sympathy for the Chinese nationalist ideals and the scarcely compatible ideals of Nazi Germany. As he is one of the leading exponents of the school of *Geopolitik* in the Far East, his dialectic is occasionally obscure to Americans. He stresses the nationalist and "socialist" phases of the doctrines of Sun Yat-sen, minimizing their democratic character: "Sun Yatsen's Staatslehre—das junge China wollte dieser ja bei allen Handlungen folgen—ragt wie ein Felsen über die Ebene parlamentarisch-liberaler Demokratie hinaus" (p. 204)—a statement which may be true, but, coming from a German, may also be misleading. Finally, the title of the work may arouse vain hopes, since the book is in no sense a biography of Chiang Kai-shek; it is an excellent piece of nation-wide reporting, in which Chiang's figure is naturally central.

PAUL M. A. LINEBARGER.

Duke University.

The Struggle for the Pacific. BY GREGORY BIENSTOCK. (New York: The Macmillan Company. 1937. Pp. 299.)

Asia's Good Neighbor. BY WALTER KARIG. (Indianapolis: The Bobbs-Merrill Company. 1937. Pp. 308.)

Educated men in China and Japan are well versed in the history and institutions of the United States. Americans cannot return the compliment. Events in the Far East have long since been front-page news; each year the Far East becomes more important in world politics. But the American scholar is still more interested in Europe than in Asia. The appearance of a book sound in content, arresting in style, and broad in vision might well influence the younger generation of scholars to enter this field. Many of us have awaited the clarion call. It suffices to say it is not to be found in either of the two books by Gregory Bienstock and Walter Karig.

Mr. Bienstock's book is the only one which warrants serious consideration. It is divided into three parts: "The Pacific World in the Making," "Rivalries in the Pacific," and "War and Strategy." Unfortunately, the weakest and dullest part comes first. With numerous tables and statistics, the author shows the growth of the Far East in railroads, shipping, airlines, and trade. The story contained in the figures is left to the reader to assemble by himself; the author all too frequently refuses to do it in the

text. Although fifteen pages are devoted to airways or projected airways, only passing mention is accorded the great increase of Japan's foreign trade.

Part II presents the oft-repeated story of the entrance of the Powers into Far Eastern affairs. The story is told concisely, but with little to distinguish it from many other accounts.

Part III, "War and Strategy," is by far the best part of the book. This reviewer regrets that the author did not deal more fully with probable strategy in a Russo-Japanese or an American-Japanese war. Our English friends, when they envisage a war between Japan and a Western Power, conveniently see it as a conflict between Japan and the United States. Although Mr. Bienstock makes no prophecy, he considers a war between Japan and Russia as the more probable. What would be the outcome? In raw materials—coal, iron, and oil—and in man-power, Russia has a distinct advantage over Japan. Russia might be able to defeat Japan on the Asiatic mainland. But this would not be a decisive defeat for the Island Empire. To defeat Japan decisively, one must have sea-power. In 1935, the total Russian navy, in both European and Asiatic waters, consisted of 4 battleships, 7 cruisers, 27 destroyers, 10 torpedo boats, and 25 submarines. This is hardly a match for the third greatest naval power in the world. Hence *in extremis* Japan need not fear annihilation from Russia. Nor from the United States. The latter country has an adequate navy, but no large naval bases close enough to the Japanese Islands to enable her to fight effectively. Excluding British aid, our nearest large base is Pearl Harbor, 3,400 miles from Yokohama. No navy, even in this engineering age, can successfully steam such a distance, give fight, and then return to its base.

The book is well documented. The bibliography includes studies in many languages, particularly Russian. The American references are for the most part to books published before 1930. No reference is made to the Lytton Report.

Asia's Good Neighbor is a thesis book. The thesis is paraded on the jacket: "We were once—can we be again?" According to Mr. Karig, the United States was the good neighbor of China and Japan in the nineteenth century. So long as we acted unilaterally, we treated these countries with respect. When we began to act jointly with other Powers, *circa* 1900, we became infected with their greed, jealousy, and villainy. The first part of the thesis is true: in the nineteenth century, China and Japan did regard the United States more favorably than they regarded the other Powers. But Mr. Karig does not prove it. He merely says our actions were superior. He offers no evidence that the *Chinese* and *Japanese* regarded them as superior. The second part of the thesis—we are no longer the good neighbor—is highly disputable.

Early American envoys to the Far East—Samuel Shaw, Caleb Cushing, Commodore Perry, Townsend Harris—are described in realistic if racy terms. In fact, these biographical sketches are by all odds the best part of the book. The author breaks down completely when he endeavors to draw conclusions from the present situation. The style abounds with slang and clichés.

The author treats detail in a cavalier fashion. "Skip it" is his advice while hastening to the many dramatic crises. The scholar will be tempted to apply the caveat to the entire book.

EDGAR P. DEAN.

*Council on Foreign Relations,
New York City.*

Japanese Trade and Industry: Present and Future. BY THE MITSUBISHI ECONOMIC RESEARCH BUREAU, TOKYO. (London: Macmillan and Company. 1936. Pp. xviii, 663.)

This is an English translation, with only a few modifications, of the *Nippon-no Sangyo-to Boeki-no Hatten* ("Development of Japanese Trade and Industry"), compiled by the Mitsubishi Keisai Kenkyu-sho (Mitsubishi Economic Research Bureau), and published toward the end of the year 1935. The volume contains a preface from the pen of Dr. Tokujī Nagaoka, the able director of the Mitsubishi Economic Research Bureau. The English translation of the preface is much condensed, but the translation of the text of the compilation, together with the tables, is in full.

It is well to emphasize the fact that while the present study was undertaken with the purpose of elucidating such problems as the recent expansion of Japanese trade in foreign markets and the effects of the Chinese boycott of Japanese goods, nevertheless it maintains an objectivity that is highly admirable. The Mitsubishi Economic Research Bureau is the successor to the economic research department maintained by the great commercial house of Mitsubishi. In 1932, Baron Koyata Iwasaki, former president of the Mitsubishi Goshi Kaisha, reorganized and endowed the Bureau, giving it an independent status; and its subsequent publications have been of irreproachable scientific merit.

Because of the interplay of economic and political forces, the present study will be of service to the political scientist as well as the economist. Three chapters depict the recent economic development of Japan, including the social and educational factors affecting the economic advance. Following chapters give a more detailed analysis of the sources of raw materials, growth and application of capital, cost of production, organization of industry, and the nationalization of industry. A section of the book offers a survey of the basic industries, including agriculture, fisheries, mining, and electric power; while another section surveys such indus-

tries as cotton textile, silk, rayon, engineering, shipbuilding, chemical, ceramic, sugar, flour-milling, and paper. A fifth section is devoted to banking, insurance, warehousing, and transportation. Finally, recent developments in foreign trade are reviewed with a view to showing the bearings on national economy from the expansion of external commerce, the changes in constituent products and regional distribution, competitive conditions, foreign trade policies promoted by the Japanese government, and the economic relations between Japan, China, and Manchoukuo. Withal, the volume constitutes a comprehensive and scholarly survey of Japanese economic conditions, almost encyclopædic in scope, and invaluable for reference.

KENNETH COLEGROVE.

Northwestern University.

Middletown in Transition; A Study in Cultural Conflicts. BY ROBERT S. LYND AND HELEN M. LYND. (New York: Harcourt, Brace and Company. 1937. Pp. ix, 581.)

Caste and Class in a Southern Town. BY JOHN DOLLARD. (New Haven: Yale University Press, 1937. Pp. v, 497.)

Robert and Helen Lynd may not aspire to be architects of what sociologists and reformers often vaguely refer to as a new social order, but they are incomparable analysts of our contemporary culture and civilization. With the ecomiums that have been heaped upon them by reviewers from far and near, they must, however, by now, be beyond praise. *Middletown in Transition* takes up the biography of a middle-sized mid-western city where their earlier book, published in 1928, left it. Promethean changes, in science, economics, and politics, have altered the face of American society during the intervening years. The nation has lived through the hell of a devastating depression, capitalist economy has been shaken to its roots, labor has become conscious of its power and is now on the march, but Middletown remains essentially the same. "A Rip Van Winkle fallen asleep in 1925 while addressing Rotary or the Central Labor Union could have awakened in 1935 and gone right on with his interrupted address to the same people with much the same ideas." Getting a living remains the main preoccupation of most Middletowners; for, "one's job is the watershed down which the rest of one's life tends to flow . . ." Labor, alternately inspired by New Deal promises and intimidated by the X family's hostility, browbeaten by special police, betrayed by spies and fakers in its own ranks, remains for the most part unorganized. When in spite of these things a nascent sense of solidarity appears, it dies under the threats that factory-owners will take their plants and the workers' precious jobs elsewhere.

Middletown is not, as H. L. Mencken with his sophomoric cynicism said, "a city in Moronia." Rather, it is a microcosm of American life, revealing the ways of men and women in an acquisitive society. It believes in *laissez faire*, that God helps those who help themselves, that government is at best a necessary evil, properly left to *unter mensch* who can be bribed or bullied into serving the ends of their economic masters. The same ambivalence that is found elsewhere is characteristic of Middletown. It believes in progressive education, and individual guidance, but insists on economy, "common sense" methods, and large classes. It waxes sentimental about "academic freedom," but is suspicious of new horizons and atypical ideas. When a social science teacher spoke in favor of the World Court, "a local editorial warned that teachers ought to remember that the schools are supported by taxes." The goal of life is to make money. "It *pays* to send children to college"; "The church has made America prosperous"; "It is desirable to *spend* leisure *profitably*"—so runs the refrain. Middletown believes that "health makes wealth," but malnutrition takes its steady toll and sewers pollute the river that washes the city's shore. "God damn Roosevelt!," said a Chamber of Commerce official, as the city joined in the scramble for New Deal funds to feed the needy and employ the jobless on local public works.

The depression was a nightmare of fear and frustration. Spirits sagged and culturally the community became what Lazarfield has called a *mude gemeinschaft*. But, scarred and bruised, it somehow survived. The ruling business class seems to have learned little from the ordeal. Today finds the X family, in whose shadow the city lives and in whose image it is fashioned, more firmly intrenched than ever. In 1936, the masses supported Roosevelt and Middletown went Democratic—but the employers prayed and labored for a Landon victory. Middletown faces both ways. "Caught between past and future, and not knowing which way to move," say the authors, "one recalls now and again Tawney's characterization of the ruling class in Europe after the French Revolution: . . . 'they walked reluctantly backwards into the future, lest a worse thing should befall them.'"

John Dollard's *Caste and Class in a Southern Town* is a magnificent study of the economic, political, and social implications of race prejudice. It is quite impossible to do justice to this volume in a short review. The *locale* is a Southern town just large enough to be classified as urban and the author modestly makes no claim to comprehensiveness. But as one follows his fascinating portrayal of the intricate pattern of white-black relationships, of how blind prejudice warps the minds of both races, of the sham and hypocrisy which characterize a society tortured by a consciousness of guilt, the impression grows that here is a portrait not alone of a Southern town but of the South. The town is bisected by a railroad

which marks the color line. On the lower side is "nigger town"—squalid, cheap houses, devoid for the most part of modern comforts and conveniences. Here are the slums where gamblers, prostitutes, and bootleggers congregate. At night, it is lively, and even joyful, in a devil-may-care sort of way. On the upper side live the whites in houses "commodious, well-painted, shrubbed, and neat." The streets are paved; there are electric lights, telephones, and modern plumbing. Nice people live here. At night, it is quiet; "there are fewer people moving on the streets although the number of whites and Negroes in the town is about the same. A sense of discipline and order is more apparent. . . . There is less walking, loitering, and laughing than on the Negro side."

In general, this contrast runs through every phase of community life. Its effect upon family life, sexual behavior, education, getting a living, politics, and religion is described with skillful restraint. Not all the whites are prosperous and not all Negroes are poor. But even the poor whites are comforted by the belief that theirs is the dominant race, and even well-to-do Negroes know that their black skin is a mark of social bondage. Class cleavages are obscured by an intense racial consciousness, but they are present on both sides. Voteless, the Negroes are defenceless and compelled to rely upon white benevolence for what they get. "It is a liberal education," says Dollard, "for the average Northerner to live for a while in a Southern town. He comes to see for the first time what it means to be able to vote, and quite as important, not to be able to vote."

Those whose image of the South is drawn from the early pages of *Gone With the Wind* will no doubt find this book uninviting. But for those who want "a novel, scientific appraisal of one Southern community; insight into the relations between the Negro and white groups; (and) a concrete understanding of what is now called the problem of culture and personality," it is indispensable.

PETER H. ODEGARD.

Ohio State University.

Government Statistics; A Report of the Committee on Government Statistics and Information Services. (New York: Social Science Research Council Bulletin 26. 1937. Pp. xiv, 174.)

This book represents the work of a committee which was organized jointly in 1933 by the American Statistical Association and the Social Science Research Council to consider and report on the organization and planning of government statistics. The report is an important contribution to the literature on statistical services, and will be of value to both the expert and the less mature student.

The first part of the book deals with the general recommendations of the Committee under the categories of organization, allocation of collec-

tion and tabulation, standards and practices, personnel, and relations with scientific organizations and users of statistics. The Committee, like most earlier qualified groups which have studied the subject, finds little to commend the centralization of statistical activities, but favors proper coördination of decentralized responsibilities. The recommendations for the improvement of the statistical services are well reasoned, and will probably receive the approval of most students of the subject.

On one item, the age of retirement, there will probably be some disagreement with the recommendation. The Committee favors retirement at sixty-four years for all administrative and professional employees. While early retirement increases morale by stimulating promotion, it deprives the services of many seasoned and experienced employees who are still at the height of their powers. No doubt there is some dead wood in key positions, but it is likely that this is due largely to an improper system of promotion. If the lower age is adopted as a general rule, provision should be made for extensions in cases of men of outstanding value.

The second part of the report contains a detailed synopsis of the operations of the Committee.

An Appendix contains a selected list of manuscript and mimeograph material and includes also a valuable summary of the scope of the statistical activities of the several departments and independent establishments. This summary will be particularly useful to those who are not acquainted with the statistical organizations of the national government. An unfortunate error is the statement that the Bureau of Pensions is under the War Department, and publishes statistics of military and civil pensions. The Bureau of Pensions was under the Department of the Interior from 1849 to 1930, when it was consolidated with the Veterans' Administration, which since 1930 has published statistics of pensions and other payments on account of military and naval service. From 1931 to 1934, the Veterans' Administration also published statistics of civil pensions, but the administration of civil pensions is now under the Civil Service Commission, which has published the statistics beginning with its report for 1935.

L. F. SCHMECKEBIER.

Brookings Institution.

BRIEFER NOTICES

AMERICAN GOVERNMENT AND POLITICS

In *The Supreme Court Crisis* (Macmillan Co., pp. vi, 108), Merlo J. Pusey marshals hackneyed arguments against President Roosevelt's defunct court reorganization plan, which he views as an attempt by a president with authoritarian notions to strip the relatively blameless and duty-

loving Supreme Court of its invaluable function as "the balance wheel of democracy." After a foreword by Senator Edward R. Burke of Nebraska, which has the saving grace of brevity, the author explains how the President, under the illusion that he knew more about the Constitution than the Court did, and with the election safely over, suddenly reached the revolutionary conclusion that there was no way to continue New Deal social reforms save to break down the barrier of recent adverse judicial decisions by "reinvigorating" the federal judiciary. However, alert Americans were not to be deceived by his plan "to enhance the working efficiency of the courts," and soon realized that the President's real intention was to pack the Supreme Court. Nor were many persons misled by absurd charges that the Court had been guilty of "judicial usurpation" in nullifying New Deal legislation, because the Court, according to the author, "passes judgment on a statute only when a citizen alleges that his constitutional rights have been invaded," and "in such cases it has no alternative to measuring the statute against the organic law." Judicial review being as simple as that, judges should not be blamed if an occasional statute falls short, or if parts of the Constitution happen to be a little out of date. Nevertheless, the author might have done well, in considering the Supreme Court crisis, to analyze the significance of the oft-repeated statement that "the Constitution is what the judges say it is," to explain why the future of American democracy might not have been as safely entrusted to President Roosevelt as left in the wavering hands of Mr. Justice Roberts, and to make clear, if "an elective despotism was not the government we fought for," when it was that we fought for a judicial despotism.—ALDEN L. POWELL.

Students of constitutional history will find an excellent complement to the customary legal approach in Burton J. Hendrick's *The Bulwark of the Republic: A Biography of the Constitution* (Little, Brown and Co., pp. xxviii, 467). Dr. Hendrick, whose biographies have twice won the Pulitzer prize, believes that "The Constitution, like everything else, is first of all biography" (p. 7). Consequently, he has selected the men whom he considers to have dominated American constitutional development, analyzed their social backgrounds, and evaluated their respective contributions. As one reads Dr. Hendrick's dramatic portrayal of the rôles of Washington, Madison, Hamilton, and the others, one feels that a good case has been presented for a biographical interpretation. Because of the wealth of material collected, it is disappointing that references to sources are lacking. The work itself is divided into five approximately equal parts. The first, "The United States Becomes a Nation," deals with the background, framing, and adoption of the Constitution; the second, "The Struggle for Existence," with the period from 1789 through *Marbury v.*

Madison; the third, "The Rise and Fall of Nullification," continues the story to the eighteen-thirties; the fourth, "The Great Failure of the Constitution," considers the slavery controversy and the Civil War; and the fifth, "The Constitution in the Modern World," ends with a discussion of Justice Holmes's philosophy. These divisions give some idea of the proportional treatment allotted the various periods. Despite the title of the last division, only seventeen pages are devoted to developments since *Munn v. Illinois*. References to recent events are scattered throughout the work, however, for Dr. Hendrick is a believer in historical parallels. The observations in the introduction indicate the author's attitude toward recent legislation and events. Typical is his belief that the recovery act was "so palpably in violation of the Constitution that no reasonable doubt on the point exists, or ever will exist, whatever new Court may be appointed" (p. xviii). He predicts that "the use of the 'due process' clause for defeating humanitarian legislation . . . will soon be a thing of the past" (p. xxvii). And he thinks that the Supreme Court, in overruling the *Adkins* case, "has simply turned its face in a new direction and has taken a stand in harmony with the best purposes of the modern world" (p. xxviii).—WILLIAM O. FARBER.

Financial handbooks are valuable guides to the fiscal problems of public administration and public finance. In *Handbook of Financial Administration* (Commonwealth of Kentucky, pp. 353), the staff of Public Administration Service offers recognized financial practice as adapted to the specific needs of Kentucky. Excellent features of the *Handbook* are the unusual number of forms (49), exhibits (17), charts (4), and a final chapter of standardized financial terminology. These contribute greatly to clarity, in which this volume is unique. Detailed procedures are given without obscuring more general topics. Of special interest to students of local government is a chapter dealing with the fiscal relations of county fee offices to the state. Public accountants, auditors, and state officials will be particularly concerned with Part III, which describes, with illustrations, the general ledger accounts together with subsidiary ledgers introduced in the state accounting offices. In 1936, a reorganization act authorized a central department of finance. The staff of Public Administration Service was requested by Governor Chandler to install integrated financial reporting, budgeting, auditing, and accounting procedures. First, a thorough fact-finding investigation was made. Following this, the *Handbook* was prepared. Its purposes were (1) to describe the essential procedures that had been installed, (2) to instruct employees of fiscal offices, (3) to aid in the supervision of such employees, (4) to set forth for all state departments the constitutional and statutory provisions relating to finance, and (5) to furnish interested citizens with a lucid account of

the state's fiscal methods. The *Handbook* is notable for its discriminating treatment of such complicated problems as the handling of encumbrances, and special funds. Modern office equipment, including the addressograph, the high-speed check writer, and the bookkeeping machine, is required in appropriate departments.—EDWARD W. CARTER.

In his *Studies in Massachusetts Town Finance* (Harvard University Press, pp. 237), E. E. Oakes takes up the financial history of fifteen Massachusetts towns, reviewing the affairs of nine in detail. The author's intention is to emphasize the importance of the benefit principle in local finance. The towns selected for study are chiefly those which have separated from larger towns or have lost territory through separation. The author finds that failure to spend property taxes so as to give proportionate benefits to the parts of towns which pay the most taxes is a prime cause of division of towns. The discussion, however, emphasizes the consequences rather than the causes of division. The towns studied are of several different types, including two towns with electric generating stations where the question of separation is not involved. The analysis of town finance during periods of industrial development and decay, and population increase and decrease, is perhaps the most useful feature of the volume. Many points of interest are presented for states junior to Massachusetts in experience with the fickle fortunes of industrialization. Fiscal data are related to trends in industry, agriculture, population, and in some instances, to questions of local "politics." The book suggests a threshers' dinner—better cooked than served. It would profit by more systematic summary throughout and by graphic representation of trends; it contains maps and numerous tables, but lacks a single chart. The study is, however, distinctly a useful contribution to the literature of local government and public finance.—GEORGE A. GRAHAM.

The *Housing Officials' Yearbook, 1937* (National Association of Housing Officials) is a helpful orientation for political scientists who find their interest in housing aroused by the passage of the Wagner Housing Act. Nineteen competent articles by housing experts (eleven of them federal officials) are supplemented by a glossary of housing terms and directories of official and unofficial agencies. The volume is open to three criticisms which, as a former editor, the reviewer makes in all sympathy with Editor Coleman Woodbury and his staff. First, the volume contains much scattered information but is no ready reference volume like the *Municipal Yearbook*. It badly needs an index. Second, the authors who drew their pay checks from Uncle Sam seem to share the customary propensity of federal officials to "describe the work of the organization" by writing excruciatingly dull accounts of the procedure of the organization,

Procedure is important, but some of us would like to know about the extent of the problem, the volume of business (if none, then the reason why), the interworking with other agencies, and the other live problems in the field of housing, instead of reading something reminiscent of the directions on the income tax blank. However, a few articles are happy exceptions. Editor Woodbury himself, Miss Catherine Bauer, and a Londoner named Richard L. Reiss contribute interesting articles, respectively, on the past year's progress, the need for housing measured in terms of population growth, and a comparison of British and American housing costs which sharply criticizes high costs of P.W.A. and resettlement construction. Students of municipal administration will be interested in a terse criticism of municipal building codes by James J. Taylor, of the P.W.A. Housing Division, and all of us should look at the directories to see if our own communities have housing agencies.—GEORGE C. S. BENSON.

Professors R. A. Egger, H. I. Baumes, and Raymond Uhl's *Training for Public Service in Virginia* (Bureau of Public Administration, University of Virginia, pp. 88 mimeo.) is an appraisal of such in-service and pre-entry training for the public service as we have in Virginia. The state stands high, "second only to New York, in the diversity in short-course training programs which it has offered," and the number of local employees reached by these courses. The Virginia League of Municipalities has been active in promoting training schools for police, fire, water-works, and other officials. Professor Egger does not over-emphasize the need for in-service training, because the rank and file of state and local employees in this commonwealth have not been recruited according to any formal merit system. There is only one such system in the state, the one in Norfolk for fire and police officials. As nearly everyone knows, a tradition of high public service in Virginia results in getting remarkably well qualified men (that is, above the average) for the political and the higher executive posts. But the reviewer's notion is substantiated by the authoritative statement of Professor Egger and colleagues that this noble front covers up a good deal of discontent caused by inequality of pay, lack of opportunities for promotion, and the generally low prestige of the offices in the middle and lower ranks of public service in Virginia. More prestige value is attached to a job in the Bell Telephone Building on Broad Street in Richmond than to one in the State Office Building on Capitol Square.—JAMES E. PATE.

The Municipal Charter Problem in Florida (Chicago: Public Administration Service, pp. 21) contains the findings and recommendations of the American Municipal Association in a rather limited survey of the munici-

pal charter problem in Florida. The field work was done and the report prepared by Mr. Donald Stone, Dr. Joseph Pois, and Mr. David L. Robinson, Jr. The survey (rather seriously limited because of lack of funds) was made for the Florida League of Municipalities and the joint legislative committee of the Florida general assembly. As pointed out in the pamphlet, the municipal law of Florida "is utterly lacking in uniformity of origin and application, the municipalities being controlled by legislation of widely varying types and effect." But there are some things to be said for the system of local legislation found in Florida—it possesses flexibility and a considerable degree of home rule is allowed. A broader plan for home rule is recommended, and the establishment of a bureau of municipal research is urged. The study is a valuable one; but, as Mr. Clifford Ham, executive director of the American Municipal Association, points out, a more comprehensive one could have been made if several thousand dollars had been set aside for the purpose.—CULLEN B. GOSNELL.

Marshall E. Dimock and George E. C. Benson have attempted to give a brief answer to the question, *Can Interstate Compacts Succeed?* (University of Chicago Press, pp. iv, 21). After a brief historical survey shows "that the Colorado River episode, like that of the New York Port Authority, augurs little good for the interstate compact as a means of settling serious conflicts of interests between states," and also that "the interstate labor compact movement must be written off as a failure," the authors proceed to minimize the disadvantages of interstate compacts, suggest that "ancillary federal control can actively insure" their effectiveness, and optimistically conclude "that the potential utility of the device extends to the entire range of permissible legislative activity."—HOWARD WHITE.

Newcomers and Nomads in California (Stanford University Press, pp. ix, 128), by William T. and Dorothy E. Cross, is a carefully documented study of the problem of indigent transiency in a state which suffers very acutely in this respect. Analyzing transient relief policies and their administration since 1933, the authors recommend many changes, such as reduction of residence requirements for local relief and modification of the "go back home" attitude. They urge the formulation of a permanent national policy to provide subsistence, employment, health, education, stability, and citizenship for this growing, mobile, and basically valuable element in our population. Interesting devices to implement these general objectives, also, are suggested.—CARLTON C. RODEE.

FOREIGN AND COMPARATIVE GOVERNMENT

In *Le Chef de l'État* (Paris: Editions A. Pedone, pp. 241), a French writer, Jacques Ranchin, undertakes to evaluate the development of the

German presidential office under the constitution of Weimar and the beginning of the National Socialist régime. In spite of occasional inaccuracies, the study is from a juridical point of view quite thorough. It is divided into three parts: the first deals with the parliamentary cabinets under Ebert and Hindenburg from 1919 to 1930; the second is devoted to the presidential cabinets between 1930 and 1933; and the third—very brief—is given over to the first year of the National Socialist régime. In presenting his materials, the author has alternated between chapters in which he analyzes the situation confronting the president at each formation of a cabinet, and others in which he describes the more general problems and indicates his own conclusions. This manner of treatment makes for a certain measure of realism. The bibliography shows, however, that the author has not gone into the large amount of historical material dealing with the formation of the several cabinets, for example, such as that contained in Stresemann, *Vermächtnis*, and hence his interpretations are often too formal and subjective for historical criticism. It is, moreover, to be noted that the author has limited himself to German sources; there is no reference to English material, even to Heneman's study based on practically the same material. In spite of these shortcomings, M. Ranchin's treatment is to be welcomed, since it frequently is illumined by comparison with analogous French situations and is written with a remarkable detachment from any of the partisan views which ordinarily enter discussions of these problems at the present time.—CARL J. FRIEDRICH.

The Story of Dictatorship from the Earliest Times till Today (E. P. Dutton and Co., pp. 231), by E. E. Kellett, is a collection of "stories" of tyrants—defined as "men who retain a permanent power in states which before have enjoyed liberty." Hebrew, Greek, Renaissance Italian, South American tyrants, and Napoleon I are treated in the first part of the volume. This consumes the space of 130 pages. There follows an account of the modern tyrannies of Russia, Italy, Germany, and Austria, which is completed in 70 pages. The shift from *tyrants* to *tyrannies* signals a corresponding shift in treatment from sketchy anecdotes of individual tyrants to a very general comparative approach in which the individual prime-mover is a somewhat unlocated point within the circumference of a theory. "The main difference between recently established tyrannies and those we have been considering is that the modern, as a rule, are based on a theory, and are meant to give it political expression." The author believes, however, that Lenin, Hitler, Pilsudski, Kemal, and Mussolini were simply "plying the old trade," and that "allowances being made for mechanical and social changes [which are not analyzed], their methods of gaining and keeping power are essentially

the same as those adopted by their Sicilian and Italian prototypes." The serious and intensive student of modern (or ancient) dictatorships will probably learn very little from this book, and he will probably be annoyed at the author's extensive use of analogy allusion and poetic quotations. Nor will he relish research methods illustrated in quotations such as "we have to rely on hints" (p. 29); "if we may once more indulge in conjecture" (pp. 30-31); "may be guessed to have" (p. 37); "some say" (p. 66); "he must have been" (p. 113); "it is said that" (ibid.); "if a well-known story is true" (p. 144). There is no bibliography whatsoever, and no indication that the author has seen such works as Schuman's study of the Nazi dictatorship. In the conclusion to the volume the author, apparently an Englishman of liberal leanings, betrays a fear that some form of tyranny may be established in England, either in forced fashion by a combination of the present central and southern European tyrannies, or through the indifference of the population within. He counsels Englishmen who are "still oppressed" to "cleave to what they have, and thus be in a position to demand more."—J. G. HEINBERG.

Although the small band of officers who attempted to set up a new order on the accession of Nicholas I were still "thinking in terms of eighteenth-century palace revolutions which were chiefly maneuvered by the Guard," they were motivated by aims and ideals which became the well-spring of Russian liberals of the following century. This justifies the title which Anatole G. Mazour gives to his excellent book, *The First Russian Revolution, 1825; The Decembrist Movement, Its Origins, Development, and Significance* (University of California Press, pp. xviii, 324). The revolutionaries were agreed on two fundamental aims—"the abolition of serfdom and the limitation of autocratic power by some kind of representative government;" but ideas of civil liberty, federalism, an agrarian program—even Pan-Slavism and terrorism—are to be found in the writings of prominent Decembrists. Outstanding is the author's exposition of the ideas of Pestel, as expressed in *Russian Justice*. Yet even Pestel had no faith in the masses, and it was only the United Slavs, who actually took little part in the revolt, who believed in appealing directly to the people. Characterizations of leading Decembrists give the book reality, and the details of revolt and trial are carefully done. Special interest attaches to the chapter on the exiles—some 131 of them—and their later life in Siberia. Many Russian sources are used, including some only recently made available for study, and there is an exceptionally well arranged bibliography. Citations only to the volume of magazines or other published collections, when these contain a variety of source as well as secondary material, somewhat mars the value of the footnotes for the ordinary reader.—E. C. HELMREICH.

INTERNATIONAL LAW AND RELATIONS

International Institutions and World Peace (Arnold Foundation, Southern Methodist University, pp. 286) is a collection of the sixteen principal papers given at the Fourth Annual Conference of the Institute of Public Affairs, held during the week of April 26, 1937, at Dallas, Fort Worth, Waxahachie, and Denton, in Texas. The conference was held under the auspices of the Carnegie Endowment for International Peace. The papers and their authors are as follows: "Forces Which Disturb World Peace," J. Linus Glanville; "International Law and World Order," Montelle E. Ogden; "The International Community and Its Legal System," Robert R. Wilson; "Processes of International Settlement," Charles A. Timm; "The Role of International Administration," S. D. Myres, Jr.; "Background and Nature of the League of Nations," C. Allen True; "The League and the Settlement of International Disputes," Royden J. Dan-gerfield; "The League and International Coöperation," Clark M. Eichel-berger; "The Permanent Court of International Justice," C. D. Judd; "The International Labor Organization," William Lonsdale Tayler; "Our New Pan American Policy," Francis B. Sayre; "Historical Bases of Pan Americanism," Charles Wilson Hackett; "Economic and Social Aspects of Pan Americanism," George Wythe; "Basic Factors in Inter-American Peace," Alfred B. Thomas; "Is There an American Inter-national Law?," John P. Bullington; and "The Inter-American Peace Machinery," J. Lloyd Mecham. The careful student of international affairs will find little new or startling in these papers, although in most cases the speakers seem to have presented to their conference audiences the processes of world order and organization in their most favorable light. If these processes should fail to keep the peace, it certainly will be through no fault of the authors of these papers. In fact, one could well wish that the responsible officials of the governments of the nations might have as much confidence in the efficacy of the processes described as these learned speakers appear to have.—N. D. HOUGHTON.

Peace or War? (University of Minnesota Press, pp. 205), edited by Professor Harold S. Quigley, is one of the *Day and Hour Series*, and comprises eleven papers delivered at a conference on "Peace or War?" held at the University of Minnesota, April 7, 8, and 9, 1937. The papers and their authors are as follows: "National Ideals in Conflict," William Y. Elliott; "Needed: New Symbols of Peace," Peter H. Odegard; "Fallacies of Economic Nationalism," Benjamin B. Wallace; "Economic Bases of Peace," Alvin H. Hansen; "War is Not Inevitable," David Bryn-Jones; "1914 and 1937: Parallel or Contrast," Harold C. Deutsch; "China Within the Triangle," Harley Farnsworth MacNair; "America: A Nation in Arms?," William T. Stone; "A Call to Preparedness," Adam E. Potts;

"Security Through Neutrality?," Edgar W. Turlington; and "The League in Crisis," Pitman B. Potter. In the apt words of the editor, "it would be difficult to find within so convenient a compass as this little book a clearer, saner, better informed, or more balanced discussion of the present international crisis." For the most part, the speakers have dealt in a thoroughly realistic fashion with the great forces and movements which present so great a challenge to the intelligence and courage of present-day peoples and their responsible officials. There is no dominant atmosphere of defeatism, yet the authors are willing to face squarely the various aspects of the current crisis, not minimizing the tremendous obstacles to peace and orderly processes.—N. D. HOUGHTON.

In increasing numbers, older dependencies as well as new ones born since the World War have become members of various international organizations, ranging from the League of Nations and the International Labor Office (in the case of India only) to the World Postal Union and others, totaling fifteen. They include such varying degrees of dependence as are represented by the Philippine Islands of today and Guam, Class A mandates and Korea, Tunis and the Dutch East Indies, and still others. After an examination of their legal status, Dr. Friedrich Apelt, in *Abhängige Mitglieder völkerrechtlicher Verbände; Ein Beitrag zur Lehre von der Rechtspersönlichkeit im Völkerrecht* (Brünn-Vienna-Leipzig: Verlag Rudolf M. Rohrer, pp. 211), expressly acknowledges as independent states, and therefore excludes from consideration in his study, San Marino, Monaco, the Free City of Danzig, Santo Domingo, Haiti, and Egypt since 1923. The author's detailed examination of treaties and of international practice shows that in international organizations dependencies are in many respects put on an equal basis with independent states in regard to seats, discussions, motions, and votes, often the person of the delegates representing them, and in rare cases even the ratification of treaties. Reasons given for granting independent membership to dependencies are the desire to recognize their administrative independence in certain fields; a concession, in effect, of multiple voting to certain powers; or, as in the case of India, considerations of development toward future national self-administration. However, there has been much opposition on the part of the United States and other major and minor powers to such independent and equal membership of dependencies. After careful consideration of the evidence, the author strongly asserts that international legal theory should take increasing cognizance of dependent members of international organizations as persons under international law. Dr. Apelt's comprehensive material is carefully assembled and documented, indexed, ably analyzed, and presented in a clear style. It should prove of considerable value to governments and students of inter-

national law, organization, and diplomacy who have not always had access to knowledge concerning actual international practice along these lines. They will also be challenged by the theoretical considerations presented in the work. Thanks are due the Institut Universitaire de Hautes Études Internationales in Geneva, where the study originated, and which has made possible the publication of this important contribution.

JOHN BROWN MASON.

Santa Ana Junior College
Santa Ana, Calif.

Canadians "who are still prone to assume that [they] have invariably lost in [their] litigations with the United States and accordingly that no confidence in ultimate justice can be entertained when [their] interests come into conflict with" those of the Republic will find little to support those assumptions in *The Settlement of Canadian-American Disputes* (Yale University Press, pp. viii, 134), by their eminent fellow-countryman, P. E. Corbett, dean of the faculty of law at McGill University. And Americans who go blithely on their way in absent-minded disregard of the annoyances which they sometimes inflict upon their neighbors may advisedly take some thought from that record. In spite of the much-bruited 125 years of peace across 3,000 miles of unfortified frontier, there have been occasions of serious friction, sheer luck in some instances preventing resort to arms. Dean Corbett's monograph is a notable contribution to the series of studies on the relations of Canada and the United States now being prepared under the direction of the Carnegie Endowment for International Peace, and to the achievement of that peace itself. The jurist is refreshingly realistic, dispassionate in his utterance, and frank and even-handed in his criticism. In crisp, clear, and compact language he has set forth the principal facts, leading arguments, and important conclusions of each of the litigations between the United States and Canada. He has grouped the disputes topically. A chapter each is devoted to boundaries, fisheries, inland waterways, and miscellaneous claims. The record is neatly analyzed, from the St. Croix River boundary dispute arising out of the treaty of 1783 to the sinking of the *I'm Alone* and the *Trail Smelter* damages. The simplicity and directness of the analysis give the work exceptional value for layman, lawyer, and student alike. The 150 years of litigation are not barren of contributions to international law and procedure. These are considered in Chapter 6. Of immediate concern to the two governments should be the *lacunae* in the existing machinery for the settlement of disputes. These the author exposes in Chapter 7. He suggests (p. 121) an "all-in" arbitral agreement, providing for a new standing tribunal competent "to deal with all cases not clearly covered by one or another of our present arrangements." It is high time that such

a tribunal be established, and it is to be hoped that the appropriate authorities of the two countries will take the suggestion under serious consideration.—HENRY REIFF.

To what extent had German interests penetrated the Moroccan sultanate by the eve of the Tangier incident? The question was hotly debated on both sides of the Rhine during the pre-war era; but, because of its ominous political implications, blind patriotism governed discussion and no satisfactory answer could be arrived at. Now, a generation later, when crowding events have made the matter one of mere academic concern, a young American scholar, in the calm detachment of another world and another age, has undertaken to solve the problem on the basis of impartial fact-finding. Francis T. Williamson's *Germany and Morocco Before 1905* (Johns Hopkins Press, pp. 210) reaches the interesting conclusion that the Teutonic foothold in Morocco was actually very slight, but that the country had come to possess tremendous symbolic importance in German eyes. While even German estimates of the number of Reich citizens resident in the sultanate run no higher than 184 and there were but 58 German firms doing business there at the time of William II's spectacular visit, the idea that national prestige would suffer an irreparable blow if Morocco were acquired by any other power was firmly implanted in the Teutonic mind. This proved as effective in stirring up anti-French sentiment as though heavy settlement had occurred and huge interests were at stake. The author supports his thesis by a vast array of documents and contemporary writings which yield convincing evidence. Statistical tables, eight detailed graphs, and a twenty-page bibliography add greatly to the value of his study. The book is, from every point of view, highly meritorious—a distinct contribution to the literature of modern imperialism.—LOWELL J. RAGATZ.

In *Hitler's Drive to the East* (E. P. Dutton and Co., pp. 130), F. Elwyn Jones describes the ruthless and systematic methods by which Germany is seeking to extend her economic and political influence over the states of southeastern Europe. Mr. Jones examines the motives back of this drive, together with the techniques involved, and estimates the danger to general European peace found in Germany's new *Drang nach Osten*. Individual chapters are devoted to the strategy and degree of Nazi penetration into Czechoslovakia, Greece, Rumania, Bulgaria, and Yugoslavia. The author's contribution lies not so much in the presentation of new material, for most of his facts can be found elsewhere, but rather in summarizing accurately and clearly this vital problem of European diplomacy.—WINCHESTER H. HEICHER.

POLITICAL THEORY AND MISCELLANEOUS

What is Ahead of Us? (Macmillan Co., pp. 192) presents the following series of Fabian Lectures: "Can Capitalism Survive?," G. D. H. Cole; "Economic Nationalism: Can it Continue?," Sir Arthur Salter; "Dictatorships: What Next?," Wickham Steed; "The Future of Soviet Communism," Sidney Webb; "The Next War: Can it be Avoided?," P. M. S. Blackett; and "Planning for Human Survival," Lancelot Hogben. These brilliant liberal writers survey the perilous state of mankind and give a gloomy picture of its prospects. Cole warns that capitalism exhibits capacity for survival despite its economic contradictions and dislocations. Salter deplores the success achieved in reconstructing, after 1919, a tolerable world system on foundations too weak to withstand post-war strains. As for dictatorships—fascist-style—Steed and Blackett urge the necessity of a united front of all anti-fascist states, ready to employ force, if necessary, to stop the fascist-nazi advance. These two agree with Cole that a union of liberal forces must be effected in England in order to pull down the Conservative government and to ensure England's taking such a strong moral position against fascism as to attract the Dominions, the United States, and the smaller democratic states. Webb continues to have faith in the U.S.S.R. as the land of hope in a world staggering towards catastrophe. Finally, Hogben supports the thesis that, if present trends continue, it is merely a question of the manner of the disappearance of the race, whether in the unspeakable horrors of war or slowly and respectably, amid the bric-a-brac, gadgets, and distractions that people at peace choose to pay for in lieu of parenthood. He urges a more radical critique of the social values imposed by capitalism. The lectures are penetrating and challenging, although they may leave many readers with the fear that these outstanding liberals can but reflect upon, not assume intellectual guidance of, the new and violent energies tearing about in the world.—CHARLES A. TIMM.

Holding that "the writer who gives the people revolutionary legends is as criminal as a cartographer who gives seamen faked charts," Frank Jellinek, an avowed Marxist, in *The Paris Commune, 1871* (Oxford University Press, pp. 447), presents a detailed, scholarly study of that event. He shows that this uprising, composed as it was of many elements—national guard workmen, bourgeois radicals, revolutionary intellectuals, members of the First International—inspired by neo-Jacobinism, burst out spontaneously when the Provisional Government attempted to seize the guns of the national guards of Paris, guns which had been purchased in many cases by them through private subscription to defend their city during its siege by the Germans, guns they looked on not only as protection against this alien enemy still camped at their gates, but also

against the apparent intention of the Bordeaux Assembly to act against the interests of the French people. Thiers deliberately goaded on the more extreme democrats of the capital into a position where he could destroy them in the interests of the conservative republic he was determined to set up. The bewildered popular leaders were pushed forward from one move to another until they found themselves setting up a government with all the responsibility that it entailed. The cry was to defend *La Patrie en danger*; no thought of a communist state, but rather of a so-called federalism. The narrative carries us in the author's spirited style through the endless discussion of theory and policy by the communards and the tragic details of the second siege, culminating in the loss of twice as many lives as in the years of the Terror of the French Revolution. The confused hand-to-hand fighting of that last week in the streets of the various "sections" of the city, the author manages after a fashion to weave into a dramatic unity. He is helped in this by maps of Paris and its environs in 1871. Thiers accomplished his end. The extreme democrats were silenced for years to come, and the conservative republic was placed on a firm foundation, to the glory of this aged historian and ambitious elder statesman. However, Jellinek holds that in the French capital, as in the Commune of the Asturias in 1934, "heroic defeat was more fertile for future victory of the working class than could have been partial success." In spite of its obvious bias, this work is no doubt the best study of the Paris Commune that we have in English.—EDITH C. BRAMHALL.

A mildly conservative case-book exposition of the difficulties encountered in the establishment of harmonious relationships between employer and employee is to be found in Herman Feldman's *Problems in Labor Relations* (Macmillan Co., pp. xxiii, 353). The cases are stated so simply that the layman and the beginning student can readily understand them. Without offering any "answers" or "solutions," the reader's attention is directed to the effects of the depression upon labor relations, the conflicting interests of consumer and producer, the relationship between wage increases and commodity prices, the relative contributions of management and labor to the success of business enterprise, sectional competition, wage differentials based upon race and sex, the factors involved in unemployment insurance, the question as to whether employee organization, if any, should take the form of company, craft, or industrial unions, and other vital social and industrial issues. The material seems to have been selected with a slight, although possibly unintentional, anti-labor bias. For example, there are more cases which tend to show the dilemma of the generous employer who takes care of his employees during depressions, the problems involved in dealing with dishonest, inefficient, and malingering employees, the irresponsible nature of labor unions, and

the losses resulting from strikes called for petty reasons, than there are which portray the plight of the laborer in unorganized and sweated industries, the consequences of long hours, poor wages, periodical unemployment, and the dismissal of faithful employees in middle age. The point of view reflected is primarily that of management, and only incidentally that of labor. The book will probably find more favor with the personnel administrator than with either the labor organizer or the objective student who is seeking to understand the conflict now raging between the workingman and his boss. A useful list of references is appended.—ROGER V. SHUMATE.

The thesis of Professor Malcolm Keir's *Labor's Search for More* (Ronald Press, pp. xii, 527) is that the major objective of the American labor movement is "more." The study surveys American labor and farmer movements during the past forty years to ascertain what the ordinary people have sought, how they tried to achieve their purposes, and what objectives are before them now. Unions, strikes, radical movements, the Non-Partisan League, the struggles of Southern factory and farm hands, miners, and lumbermen pass in rapid review. The accomplishments and vicissitudes of labor legislation, the more important court decisions affecting labor, and the political activities of labor unions are analyzed. There is a certain unbalance in the work, evidenced, for instance, by the disproportionate attention given such a minor matter as the Sacco-Vanzetti trials and a tendency to play up sensational incidents rather than to follow through carefully the basic trends of labor history. The book was written for the general public rather than a university classroom and furnishes a large amount of specific information for persons not previously familiar with labor history.—DON D. LESCOHIER.

Although Jacques Lambert, in *La Mise en Oeuvre judiciaire du Droit naturel aux États-Unis et le Maintien de l'Unité nationale dans un Régime décentralisé* (Lyon: Bosc Frères M. and L. Riou, pp. 48) considers several aspects of the government of judges, its most striking manifestation appears in the creation of a "super-constitution" in the natural law tradition from common law materials. In judicial review under "due process," and in the free construction of statutes, the Supreme Court has established a natural law which has come to pervade the jurisprudence of the states. As a consequence, a single juridical ideal exists, attainable through such diverse means as the judiciary allows. Lambert denies that judges tend to be subjectively arbitrary in the determination of "due process." Traditions of American common law provide its substance. Likewise, no criticism should be directed against judicial conservatism, for changes occur, slowly indeed, but effectively, as judges are exposed to new situations. And despite the subordination of the legislature, the judiciary accurately reflects the temper of America. Compared with government

by legislature, Lambert concludes, the government of judges does not suffer.—E. S. WENGERT.

A composite volume surveying the whole field of the social sciences is offered in *Man and Society* (Prentice-Hall, pp. 805), edited by Emerson P. Schmidt, of the University of Minnesota. The book is designed to serve as a text in social science orientation courses and presents each specific field in the words and from the viewpoint of a teacher of the subject. Of the sixteen chapters, six are devoted to sociology, four to economics, three to government, and one each to history, geography, and psychology. The group of thirteen authors is made up of eleven from the University of Minnesota (Messrs. Schmidt, Monachesi, Wallis, Longstaff, Vold, Steefel, Hartshorne, Kirkpatrick, Starr, Kozelka, and Miss Shaw), Hertzler of the University of Nebraska, and Blumer of the University of Chicago. In each instance, the subject matter, scope, methods, and substantive elements of the particular field are presented, e.g., in regard to political science—sovereignty, law, political theory, classification of governments, international organization, electoral processes, political parties, citizenship, and the machinery of government.—H. R. BRUCE.

In *The Road to Reunion, 1865-1900* (Little, Brown and Company, pp. 307), by Paul H. Buck, the reader finds a small book treating a large subject. The thirteen chapters are couched in terms appropriate to the poetic standards of the manuscript. For a book on the South after the war, it is well balanced. For a book on the Nation after the war, it leaves much to be desired. The author's thesis is that the Civil War was the culminating stage in the creation of the chasm of disunion; that this chasm, widened and deepened by war events, had to be bridged before reunion could be realized; and that the series of attempts at bridging the gap constitute the vital events of the period. The title suggests a wide field of operation, but in that respect the book is disappointing. The author would have one believe that the principle of states' rights was exclusively Southern in acceptance and that all other sections were uniformly nationalist in thought and in deed, before and after the war. As a book on a section in process of change, it should satisfy the demands of scholars for accuracy of quotation and of Southern publicists for sympathetic appreciation. The last chapter concludes that reunion through reconciliation was accomplished by 1900, that the chasm was bridged, that full understanding was established. To the student of government, aware of the political impotency of the Southern Negro in contrast with political equality elsewhere and convinced that a chief cause of disunion was the difference of opinion on the growing sentiment that a democracy must be based upon a free and active people, this conclusion of the author seems somewhat premature.—GEORGE C. ROBINSON.

RECENT PUBLICATIONS OF POLITICAL INTEREST BOOKS AND PERIODICALS

CLYDE F. SNIDER

University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

Books

Abbott, Edith. Some American pioneers in social welfare: select documents with editorial notes. Pp. 189. Chicago: Chicago Univ. Press. 1937.

Bailey, K. H., and Giblin, L. F. Marketing and the constitution. Pp. 24. N.Y.: G. E. Stechert. 1937.

Brodsky, David, and Lieberman, J. Almyk. Handbook of interstate motor carrier law. Pp. 182. N.Y.: Milbin Pub. Co. 1937.

Callen, E. Glenn. The administration of Nebraska's labor laws. Pp. 80. Lincoln (Neb.): Author. 1937.

Comey, Arthur C., and McNamara, Katherine. State and national planning. Pp. 22. Cambridge (Mass.): Harvard Univ. Press. 1937.

Constitution of the United States; an exhibition on the 150th anniversary of its formation. Pp. 25. San Marino (Calif.): Huntington Library. 1937.

Corwin, Edward S. The constitution and what it means today. Rev. ed. Pp. 217. Princeton (N.J.): Princeton Univ. Press. 1937.

Crawford, Finla G. The gasoline tax in the United States, 1936. Pp. 50. Chicago: Pub. Admin. Service. 1937.

Culver, Dorothy C. Training for public service: a bibliography. Pp. 52. Berkeley (Calif.): Bur. of Pub. Admin., Univ. of Calif. 1937.

Davis, Michael M. Public medical service; a survey of tax-supported medical care in the United States. Pp. 179. Chicago: Univ. of Chicago Press. 1937.

Field, Oliver P. Some suggested research projects in administrative law. Pp. 52. (Mimeo.) N.Y.: Social Science Research Council, Committee on Pub. Admin. 1937.

Franck, Louis R. L'expérience Roosevelt et le milieu social américain. Pp. 388. Paris: Alcan. 1937.

Gillespie, G. B. The people demand a square deal, and the forgotten man. Pp. 117. Boston: Chapman and Grimes. 1937.

Gruchij, Allan G. Supervision and control of Virginia state banks. Pp. 334. N.Y.: Appleton-Century. 1937.

Hathaway, Clarence A. The people vs. the supreme court. Pp. 16. N.Y.: Workers Lib. Pubs. 1937.

Herberg, Will. The C.I.O., labor's new challenge. Pp. 23. N.Y.: Workers' Age Pub. Assoc. 1937.

Hillhouse, A. Miller, and Welch, Roland B. Tax limits appraised. Pp. 40. Chicago: Pub. Admin. Service. 1937.

Johnson, Douglas. The assault on the supreme court. Pp. 70. N.Y.: Nat. Committee to Uphold Constitutional Government. 1937.

Jones, Edward N. One year of W.P.A. in Pennsylvania, July 1, 1935-June 30, 1936. Pp. 139. Harrisburg (Pa.): Works Progress Admin. 1937.

Kimmel, Lewis H. Cost of government in the United States, 1934-1936. Pp. 150. N.Y.: Nat. Indus. Conf. Bd. 1937.

Lambert, J. Histoire constitutionnelle de l'Union américaine. 2 vols. Pp. 553; Paris: Sirey. 1937.

Mayer, Marian. Workmen's compensation law in Louisiana; a case study. Pp. 253. Baton Rouge (La.): La. State Univ. Press. 1937.

McGrath, John S., and Delmont, James J. Floyd Bjornsterne Olson, Minnesota's greatest liberal governor; a memorial volume. Pp. 333. St. Paul (Minn.): McGrath & Delmont. 1937.

Milchrist, Elizabeth Hayward. State administration of child welfare in Illinois. Pp. 141. Chicago: Univ. of Chicago Press. 1937.

Monroe, James O. Blasting the legislative "last minute jam." Pp. 24. Collinsville (Ill.): Author. 1937.

Paul, Randolph Evernghim, and Others. Studies in federal taxation. Pp. 374. Chicago: Callaghan. 1937.

Pusey, Merlo J. The supreme court crisis. Pp. 114. N.Y.: Macmillan. 1937.

Sayre, Wallace S. An outline of American government. Pp. 154. N.Y.: Barnes and Noble. 1937.

Schibsy, Marian, and Lewis, Read. How to become a citizen of the United States. Pp. 63. N.Y.: For. Language Infor. Service. 1937.

Schuyler, W. M. The American yearbook. Pp. 958. N.Y.: Nelson. 1937.

Senior, Mildred Ruth. The supreme court; its power of judicial review with respect to congressional legislation. Pp. 75. Washington: George Washington Univ. 1937.

Steiner, H. Arthur, ed. Significant supreme court decisions, 1934-37. 2d ed. N.Y.: Wiley. 1937.

Stewart, Paul W., and Others. The national debt and government credit. Pp. 188. N.Y.: Twentieth Century Fund. 1937.

Teachers retirement systems and social security. Pp. 60. Wash.: Nat. Educ. Assoc. 1937.

Tuller, W. K. A treatise on the taxing power with particular application to the state income tax. Pp. 475. Chicago: Callaghan. 1937.

Whitehurst, Ben. "Dear Mister President." Pp. 95. N.Y.: Dutton. 1937.

Wilson, Norman. After the preamble. Pp. 30. Yonkers (N.Y.): Author. 1937.

Winston, Robert W. It's a far cry. N.Y.: Holt. 1937.

The work unit in federal administration (a symposium). Pp. 46. Chicago: Pub. Admin. Service. 1937.

Articles

Administration. Voyage à travers les institutions administratives des États-Unis. *E. Vinck and R. Didisheim.* Rev. Int. des Sciences Admin. Apr.-June, 1937.

———. The value of economic training for public administration. *Arnold Plant.* Measurement of staff output in clerical work. *Myra Curtis and Others.* The use of the interview in recruitment and promotion. *Mary A. Hamilton and Others.* Pub. Admin. July, 1937.

———. State, county, and civil service in the U.S.A. *C. S. Peterson.* Am. Federationist. July, 1937.

———. Tennessee's second state reorganization. *Les S. Greene.* Nat. Mun. Rev. July, 1937.

———. The "merit system" again. *Kenneth C. Cole.* Organization of the executive branch of the national government of the United States. *L. F. Schmeckebier.* Am. Pol. Sci. Rev. Aug., 1937.

Administrative Law. Practice and procedure before the federal communications commission. *Hampson Gary.* Air Law Rev. Apr., 1937.

———. Laymen's practice before administrative commissions. *Ia. Law Rev.* May, 1937.

———. Judicial review of administrative findings of fact. *Frederick Green*. Ill. Law Rev. May, 1937.

———. The jurisdictional fact theory and administrative finality. *Forrest R. Black*. Cornell Law Quar. June, 1937.

———. Control of unauthorized practice before administrative tribunals in Missouri. *Robert L. Haward*. Mo. Law Rev. June, 1937.

Bankruptcy. The progress of the Chandler bankruptcy bill. *Reuben G. Hunt*. Commercial Law Jour. July, 1937.

Communications. A realistic approach to the law of communications. *S. M. Siegel*. Radio censorship. *Minna F. Kassner*. The public control of radio. *Irwin Stewart*. Air Law Rev. Apr. 1937.

———. Empire of the air. *W. Carroll Munro*. Current Hist. July, 1937.

Conservation. Conservation and use of forests in the southwest. *G. A. Pearson*. Scientific Mo. Aug., 1937.

Constitutional Law. Constitutionality of marriage protective statutes. Univ. of Cincinnati Law Rev. May, 1937.

———. Standpoint in constitutional law. *Edward S. Corwin*. Boston Univ. Law Rev. June, 1937.

———. Constitutional law: the federal-state system of unemployment compensation under the social security act. *E. R. Gilliom*. Mich. Law Rev. June, 1937.

———. Regulation of interstate commerce: Ashurst-Sumners act. *E. W. Kentzman*. Boston Univ. Law Rev. June, 1937.

———. Constitutional law: Frazier-Lemke amendment. *William A. Reppy*. So. Calif. Law Rev. June, 1937.

———. The supreme court and bankruptcy. Commercial Law Jour. June, 1937.

———. Amendment. Amending the constitution—article 5: the keystone of the arch. *Ralph R. Martig*. Mich. Law Rev. June, 1937.

———. Delegation of Powers. Federal spending power and delegation. *Thomas A. Cowan*. George Washington Law Rev. May, 1937.

———. Labor. Child labor regulation under the Kentucky Whip and Collar Co. v. Illinois Central Railroad case. Univ. of Cincinnati Law Rev. May, 1937.

———. The Parrish case: minimum wages for women and, perhaps, for men. *J. K. Cheadle*. Univ. of Cincinnati Law Rev. May, 1937.

———. Wage and hour legislation in the courts. *Ora L. Marshino and Lawrence J. O'Malley*. George Washington Law Rev. May, 1937.

———. The Washington minimum wage decision. *Paul Y. Davis*. Ind. Law Jour. June, 1937.

———. Constitutionality of state anti-injunction acts. *T. E. Vogt*. Mich. Law Rev. June, 1937.

———. The railway labor act decision. *F. C. Gause and E. A. Kightlinger*. Ind. Law Jour. June, 1937.

———. Personal Guarantees. Judicial review and civil liberties. *Osmond K. Fraenkel*. Brooklyn Law Rev. May, 1937.

———. Social Security Decisions. The social security decisions: some implications. Ill. Law Rev. May, 1937.

———. By-products of the social security decisions. *R. S. Hoar*. Marquette Law Rev. June, 1937.

———. State. State constitutional law in 1936-37. *J. A. C. Grant*. Am. Pol. Sci. Rev. Aug., 1937.

———. Supreme Court. The supreme court. *Edward F. McClennen and Others*. Law Soc. Jour. May, 1937.

———. The supreme court: another word. Ill. Law Rev. June, 1937.

———. The president's supreme court bill (statement to senate judiciary committee). *Edward T. Lee*. John Marshall Law Quar. June, 1937.

———. Observations on the proposals of the president to change the personnel of the judges. *Ruby R. Vale*. Dickinson Law Rev. June, 1937.

———. The critical stage in the supreme court fight. *Sylvester C. Smith, Jr.* Am. Bar Assoc. Jour. July, 1937.

———. The supreme court and unconstitutional laws. *E. I. McCormac*. Calif. Law Rev. July, 1937.

———. The president and the supreme court. *John T. Flynn*. Southern Rev. Summer, 1937.

———. **Taxation.** Federal taxation of obligations issued by state educational institutions. *Evelyn N. Cooper*. Legal Notes on Local Govt. July, 1937.

———. Federal taxation of state officers and employees. *J. Duke Smith*. Tax Mag. Aug., 1937.

———. **Wagner Act Decisions.** The Wagner act decisions. *Warren Woods* and *Altha C. Wheatley*. George Washington Law Rev. May, 1937.

———. The Wagner act decisions and factual technique in public law. *R. F. Fuchs* and *Walter Freedman*. Wash. Univ. Law Quar. June, 1937.

———. Constitutional law: Wagner labor act. *B. A. Finburg*. Boston Univ. Law Rev. June, 1937.

———. The Wagner act decisions studied in retrospect. *N. L. Nathanson*. Ill. Law Rev. June, 1937.

———. Constitutional law: national labor relations cases. *D. G. Yorkey*. Cornell Law Quar. June, 1937.

———. The national labor relations decisions in the United States supreme court. *S. Avakian*. Calif. Law Rev. July, 1937.

———. **Corporations.** Significant trends in modern incorporation statutes. *W. B. Rutledge*. Univ. of Pittsburgh Law Rev. Apr., 1937.

———. Personal jurisdiction over foreign corporations as defendants in the United States supreme court. *Louis P. Hafer*. Boston Univ. Law Rev. June, 1937.

———. **Federal System.** The settlement of certain state claims against the federal government. *B. U. Ratcliff*. Soc. Econ. Jour. July, 1937.

———. **Government and Business.** Federal licensing of interstate business—the O'Mahoney bill. George Washington Law Rev. May, 1937.

———. **Political power:** will the government take over the utilities? *Winifred Kirkland*. Atlan. Mo. Aug., 1937.

———. **Health.** Milk regulation in New York. Yale Law Jour. June, 1937.

———. **Interstate Relations.** The development of interstate government. *H. R. Gallagher*. Nat. Mun. Rev. July, 1937.

———. **Labor.** Legal status of sit-down strike: legal and equitable remedies. *C. C. Spangenberg*. Mich. Law Rev. June, 1937.

———. Sidelights on the national labor relations act. *William B. Henderson*. Commercial Law Jour. June, 1937.

———. Legal implications of labor racketeering. Columbia Law Rev. June, 1937.

———. Industrial strike-breaking—the Byrnes act. Univ. of Chicago Law Rev. June, 1937.

———. The experience with the labor program under the N.I.R.A. *Solomon Barkin*. Am. Federationist. June, 1937.

———. Businesses subject to the national labor relations act. *Joseph H. Mueller*. Mich. Law Rev. June, 1937.

———. Government and labor: the latest phase. *L. K. Garrison*. Columbia Law Rev. June, 1937.

———. The Norris-La Guardia act: cases involving or growing out of a labor dispute. Harvard Law Rev. June, 1937.

———. Fair labor standards bill. *Frances Perkins and Others*. Am. Federationist. July, 1937.

———. The Wagner labor act: a new deal in labor relations. *W. A. McAfee*. Am. Bar Assoc. Jour. July, 1937.

———. What's wrong with the sit-down strike? *Joseph H. Fichter*. Catholic World. Aug., 1937.

Legislation. Cumulative voting in Illinois. *Charles S. Hyneman and Julian D. Morgan*. Ill. Law Rev. May, 1937.

———. A survey of statutory changes in North Carolina in 1937. N. C. Law Rev. June, 1937.

———. The inquisitorial power of congress. *Bryce L. Hamilton*. Am. Bar Assoc. Jour. July, 1937.

———. How efficient is Congress? *Jay Robinson*. Nation's Business. July, 1937.

———. Crooks in the legislature. *A State Senator*. Am. Mercury. July, 1937.

———. Probes: Congress on the warpath. *Laird Bell*. Atlan. Mo. July, 1937.

———. Congressional investigations during Franklin D. Roosevelt's first term. *M. Nelson McGeary*. Am. Pol. Sci. Rev. Aug., 1937.

Libraries. Measuring public library service. *C. E. Ridley and H. A. Simon*. Pub. Management. July, 1937.

Money. Must we have inflation? *Rex Parker and R. H. White*. Forum. July, 1937.

———. Will the United States adopt a gold exclusion policy? *A. P. Woolfson*. Forestalling inflation. *J. E. Goodbar*. Bankers Mag. July, 1937.

Monopoly and Competition. The Robinson-Patman act and the accountant. *J. B. Scholesfield*. Jour. Accountancy. July, 1937.

———. An interpretation of the Robinson-Patman act. *W. H. S. Stevens*. Recent price-regulating legislation. *P. C. Kelley*. Jour. of Marketing. July, 1937.

———. A year under Robinson-Patman. *John H. Crider*. Nation's Business. Aug., 1937.

Parties and Elections. Contempt prosecutions for election frauds. *George L. Quilici*. John Marshall Law Quar. June, 1937.

———. Perplexities of the American politician. *D. W. Brogan*. Fortnightly. July, 1937.

———. A professor quits the communist party. *Stuart Browne*. Harper's. July, 1937.

Planning. The new state planning acts. *Ralph B. Cooney*. Pub. Util. Fort. June 10, 1937.

Public Utilities. A bit of jay-walking in the regulatory highway. *H. C. Spurr*. Depression-hued regulation of public utilities. Parts I, II. *C. Emery Trozel*. Can utility rate regulation be made effective? *John Bauer*. Federal telephone regulation. *Thad H. Brown*. Federal power commission's electric rate survey. *W. E. Mosher*. The California rate policy and its results. *W. J. Carr*. Pub. Util. Fort. June 10, 24, July 8, 22, 1937.

———. The public utility holding company problem. *N. S. Buchanan*. Calif. Law Rev. July, 1937.

———. Uniform system of accounts of the federal power commission. *Charles W. Smith*. Accounting Rev. June, 1937.

———. National power policy. *E. H. Foley, Jr., and Others*. Commonwealth Rev. May, 1937.

———. Municipal responsibility for effective public utility regulation. *John Bauer*. Pub. Management. Aug., 1937.

Public Works. Public works in the United States of America. *Harold Ickes*. Int. Labour Rev. June, 1937.

Reporting. Reporting governmental activities to the public. *Merle R. Chessman*. Commonwealth Rev. May, 1937.

Social Security. Social security. *Symposium*. Commonwealth Rev. May, 1937.

———. Federal old age benefits and low income groups. *Frank G. Davis*. Am. Federationist. July, 1937.

———. Social security and bonds. *George E. Anderson*. Banking. July, 1937.

———. Killing old age security with kindness. *Abraham Epstein*. Harper's. July, 1937.

———. Developments in the old-age benefits program. *Le Roy Hodges*. Nat. Mun. Rev. July, 1937.

Taxation. Homestead tax reduction. *C. W. Thompson*. Ia. Law Rev. May, 1937.

———. Assessment of real property for taxation. *Kenneth K. Luce*. Jurisdiction of a state to tax personal incomes. *J. L. White*. Mich. Law Rev. June, 1937.

———. Jurisdiction to tax income. *E. S. Stimson*. Cornell Law Quar. June, 1937.

———. Taxpayers' suits as a means of controlling the expenditure of public funds. Harvard Law Rev. June, 1937.

———. AAA refunds: a study in tax incidence. *M. H. Johnson*. Columbia Law Rev. June, 1937.

———. The rôle of the courts in personal property tax cases in Chicago. *O. L. Altman*. Ill. Law Rev. June, 1937.

Virgin Islands. Caribbean laboratory, U.S.A. *R. W. Desmond*. Current Hist. Aug., 1937.

Welfare. The education and supervision of mental defectives. *B. A. Smith*. Jour. Crim. Law and Crim. July-Aug., 1937.

FOREIGN AND COMPARATIVE GOVERNMENT

Books

Baldwin, Stanley. Service of our lives: last speeches as prime minister. Pp. 175. London: Hodder & Stoughton. 1937.

Bittelman, Alex. Trotsky the traitor. Pp. 30. N.Y.: Workers Lib. Pubs. 1937.

Brady, R. A. The spirit and structure of German fascism. Pp. 439. N.Y.: Viking. 1937.

Brasillach, Robert. Léon Degrelle et l'avenir de "rex." Pp. 85. Paris: Plon. 1936.

Bryant, Arthur. Stanley Baldwin: a tribute. Pp. 192. London: Hamish Hamilton. 1937.

The case of the anti-soviet Trotskyite centre. Pp. 580. N.Y.: Bookniga. 1937.

Daniels, H. G. The framework of France. Pp. 267. London: Nisbet. 1937.

Douglas, C. H. The Alberta experiment: an interim survey. Pp. 220. London: Eyre & Spottiswoode. 1937.

Foerander, Orvell de R. Toward industrial peace in Australia. Pp. 292. N.Y.: G. E. Stechert. 1937.

Fuchs, Robert. Die Sondergerichtsbarkeit in Deutschland. Pp. 77. Oberndorf am Neckar: Schwarzwälder Bote. 1936.

"Germanicus." Germany, the last four years; an independent examination of the results of national socialism. Boston (Mass.): Houghton. 1937.

Goldmark, Josephine, and Hollman, A. H. Democracy in Denmark. Wash.: Nat. Home Lib. Found. 1936.

Heisler, Francis. The first two Moscow trials: why? Pp. 190. Chicago: Socialist Party. 1937.

Hutt, Allen. The post-war history of the British working class. Pp. 320. London: Gollancz. 1937.

Joshi, G. N. Indian administration. Pp. 316. London: Macmillan. 1937.

Kemnitz, Martin. Die auswärtige Gewalt der Britischen Dominien. Pp. 85. Würzburg: Mayr. 1937.

Lovestone, Jay. The people's front illusion. Pp. 86. N.Y.: Workers' Age Pubs. 1937.

Ludwig, Emil. Hindenburg and the saga of the German revolution. Pp. 401. London: Heinemann. 1937.

Mädig, Erhard. Die staatsrechtliche Stellung der NSDAP. Pp. 94. Leipzig: Schwarze. 1936.

Marriott, J. A. R. The makers of modern Italy: Napoleon-Mussolini. Pp. 240. London: Oxford Univ. Press. 1937.

Mathews, Basil, and Wilson, Winifred. India reveals herself. Pp. 205. London: Oxford Univ. Press. 1937.

Moe, Finn. Does Norwegian labor seek the middle way? Pp. 40. N.Y.: League for Indus. Democ. 1937.

Montavon, William F. Insurrection in Spain. Pp. 40. Washington: Nat. Catholic Welfare Conf. 1937.

Perham, Margery. Native administration in Nigeria. Pp. 416. London: Oxford Univ. Press. 1937.

Politics and political parties in Roumania. Pp. 500. London: Int. Ref. Lib. Pub. Co.

Prieto, Carlos. Spanish front. Pp. 95. N.Y.: Nelson. 1937.

Ranchin, J. Le chef de l'état et la constitution du cabinet en droit public allemand (1919-1934). Pp. 238. Paris: Pedone. 1937.

Reiss, Richard L. British and American housing. Pp. 110. N.Y.: Nat. Public Housing Conf. 1937.

Roberts, Bechhofer. Stanley Baldwin: man or miracle? Pp. 287. N.Y.: Greenberg. 1937.

Schmid, Paul. Die bisherige Erfüllung des Parteiprogramms in seiner heutigen Auslegung durch die Gesetzgebung des Kabinetts Hitler. Pp. 59. Pfullingen in Württ: Blessing. 1936.

Schneider, Mrs. Margaret Grant. More security for old age. Pp. 204. N.Y.: Twentieth Century Fund. 1937.

Simey, T. S. Principles of social administration. Pp. 187. London: Oxford Univ. Press. 1937.

Smellie, K. B. A hundred years of English government. Pp. 468. N.Y.: Macmillan. 1937.

Steed, Wickham. Hitler, whence and whether? Pp. 221. London: Nisbet. 1937.

Stratenwerth, Fritz H. Verordnung und Verordnungsrecht im Deutschen Reich. Pp. 169. Berlin: Triltsch & Huther. 1936.

Trivanovitch, Vaso. Economic development of Germany under national socialism. Pp. 158. N.Y.: Nat. Indus. Conf. Bd. 1937.

Trotsky, Leon. The Stalin school of falsification. Pp. 368. N.Y.: Pioneer Pubs. 1937.

Who's who in Japan. Pp. 679. N.Y.: G. E. Stechert. 1937.

Wortham, H. E. Mustapha Kemal of Turkey. Pp. 228. London: Holme Press. 1937.

Articles

Administration. Enquête sur le recrutement et le perfectionnement des agents du cadre administratif supérieur. *Rev. Int. des Sciences Admin.* Apr.-June, 1937.

———. Le droit de grève des fonctionnaires en Angleterre et aux États-Unis. *F. Honig* and *H. W. Spiegel*. *Rev. Pol. et Parl.* July, 1937.

Belgium. La situation politique en Belgique. *Rev. Pol. et Parl.* May, 1937.

British Empire. The privy council and the competence of federal legislatures to legislate pursuant to international obligations. *J. R. Starke*. *Australian Law Jour.* June, 1937.

———. Waziristan and frontier policy. *Sir William Barton*. *Res Britannica*. *Fred Clarke*. *Fortnightly*. July, August, 1937.

———. The imperial conference. *John Coatman*. A soviet view of the British empire. *I. Zvaritch*. *Pol. Quar.* July-Sept., 1937.

Canada. Spotlights on Canada. *B. T. Richardson* and *Others*. *Current Hist.* July, 1937.

Egypt. Old Egypt grows up. *Emil Ludwig*. *Current Hist.* July, 1937.

Federalism. Unconstitutionality and free trade in three federal systems. *Univ. of Chicago Law Rev.* June, 1937.

France. Entre le rouge et le noir. *Jean Compeyrot*. L'agriculture et sa représentation dans l'État. *Louis Salleron*. La réforme électorale. *Albert Milhaud*. *Rev. Pol. et Parl.* May, June, 1937.

———. France's popular front. *R. J. Dingle*. *Dublin Rev.* July, 1937.

———. The Blum experiment. *Roger Auboin*. *Int. Affairs.* July-Aug., 1937.

———. Present tendencies of trade unionism in France. *Paul Vaucher*. *Pol. Quar.* July-Sept., 1937.

Germany. Recent German legislation. *R. R. Kühlewein*. *Tulane Law Rev.* June, 1937.

———. Dictatorship and the German constitution: 1933-1937. *Karl Loewenstein*. *Univ. of Chicago Law Rev.* June, 1937.

———. Law and life in the third Reich. *Jurist*. *Contemp. Rev.* July, 1937.

Great Britain. Stanley Baldwin's instinct. *Robert Bernays*. *Forum*. July, 1937.

———. The new government. *Geoffrey Mander*. *Contemp. Rev.* July, 1937.

———. Lord Baldwin. *Algernon Cecil*. Sir Austen Chamberlain: a great conservative foreign secretary. *A. L. Kennedy*. *Quar. Rev.* July, 1937.

———. The government and the farmers. *Cloudesley Brereton*. *Fortnightly*, July, 1937.

———. The new trend in labour politics. *James Corbett*. *English Rev.* July, 1937.

———. The future of labour. *John Scanlon*. *Nine. Cent.* July, 1937.

———. A note on the bill of rights. *Robert H. George*. *Am. Hist. Rev.* July, 1937.

———. The internal consequences of rearmament. *R. W. B. Clarke*. The London bus strike and the public corporation. *Ernest Davies*. *Pol. Quar.* July-Sept., 1937.

———. The summer schools and other educational activities of the British liberal party. *Joseph R. Starr*. *Am. Pol. Sci. Rev.* Aug., 1937.

———. Whither England. *W. G. S. Adams*. *Southern Rev.* Summer, 1937.

Housing. British and American housing. *R. L. Reiss*. *Social Service Rev.* June, 1937.

———. Re-housing Russia. *Joseph H. Baird*. *Current Hist.* Aug., 1937.

India. Deadlock in India. *Patrick Lacey*. *Nine. Cent.* July, 1937.

- . The crown and federation in India. *Sir William Barton*. Quar. Rev. July, 1937.
- Italy. Some impressions in Italy. *Peter Hutton*. Nine. Cent. July, 1937.
- . Corporatism: Christian—social and fascist. *Luigi Sturzo*. Catholic World. July, 1937.
- Japan. Whither the political parties? *Taketora Ogata*. The new foreign minister. *Shiro Machida*. Contemp. Japan. June, 1937.
- . Japan's military socialism. *A. Morgan Young*. Fortnightly. Aug., 1937.
- Palestine. The courts and emergency regulations of Palestine. *Norman Eentwich*. Jurid. Rev. June, 1937.
- Parliamentarism. The crisis of European parliamentarism. *Joseph S. Roucek*. Social Sci. July, 1937.
- Philippines. Puzzle in the Philippines. *W. H. Chamberlin*. Current Hist. July, 1937.
- Poland. Poland's camp of national unity. *Elizabeth Wiskemann*. Fortnightly. July, 1937.
- Portugal. The polity of Portugal. *W. C. Atkinson*. Fortnightly. Aug., 1937.
- Russia. The turn towards freedom. *Alexander Kerensky*. Slavonic Rev. July, 1937.
- . Stalin's purge: a war measure. *Eugene Lyons*. Current Hist. July, 1937.
- . Light on the Trotskyist trials. *Sir John Maynard*. Pol. Quar. July—Sept., 1937.
- . Crisis in Russia. *Wickham Steed* and *William Reswick*. Atlan. Mo. Aug., 1937.
- Social Security. The new Turkish labour code. *Oscar Weigert*. Statistics of the working of the social insurance act in France from 1932 to 1935. Int. Labour Rev. June, 1937.
- Spain. Spain in revolt. *V. Alton Moody*. Social Forces. May, 1937.
- Yugoslavia. Yugoslavia's design for democracy. *H. C. Wolfe*. Current Hist. Aug., 1937.

INTERNATIONAL RELATIONS

Books

- Abendroth, Wolfgang*. Die völkerrechtliche Stellung der B- und C-Mandate. Pp. 378. Breslau: Marcus. 1936.
- Académie de droit international*. Recueil des cours, 1936. Vol. II. Pp. 700. Paris: Sirey. 1937.
- Angell, Sir Norman*. The defence of the empire. Pp. 245. London: H. Hamilton. 1937.
- Ashton, H. S.* Clamour for colonies. Pp. 191. London: Butterworth. 1936.
- Ballau, Jenny*. Spanish prelude. Pp. 288. London: Gollancz. 1937.
- Bendheim, Erich*. Das deutsche Devisenrecht und die Schweiz. Pp. 207. Bern: Stämpfli. 1936.
- Borchard, Edwin*, and *Lage, W. P.* Neutrality for the United States. Pp. 330. New Haven (Conn.): Yale Univ. Press. 1937.
- Browder, Earl*. Lenin and Spain. Pp. 15. N.Y.: Workers Lib. Pubs. 1937.
- Calderwood, Howard B.* The higher direction of the league secretariat. Pp. 31. (Arnold Found. Studies, vol. 5, no. 3.) Dallas (Tex.): Southern Methodist Univ. 1937.
- Campoamor, Clara*. La révolution espagnole vue par une républicaine. Pp. 256. Paris: Plon. 1937.

Carr, E. H. International relations since the peace treaties. Pp. 292. N.Y.: Macmillan. 1937.

Chassery, Edmond. Les illusions de l'Amérique en matière de crédit de 1914 à l'expérience Roosevelt. Pp. 307. Paris: Libr. technique et économique. 1937.

Culbertson, W. S. Reciprocity: a national policy for foreign trade. Pp. 298. N.Y.: Whittlesey House. 1937.

Desmond, R. W. The press and world affairs. Pp. 446. N.Y.: Appleton-Century. 1937.

Dimitroff, G. Spain and the people's front. Pp. 31. N.Y.: Workers Lib. Pubs. 1937.

Donington, Robert and Barbara. The citizen faces war. Pp. 286. London: Gollancz. 1937.

Driault, E. La paix de la France. Pp. 565. Paris: Sirey. 1937.

Dzelepy, E.-N. La nouvelle triplique. Pp. 159. Paris: Fustier. 1936.

Dzelepy, E.-N. Le complot espagnol. Pp. 156. Paris: Fustier. 1936.

Eden, Anthony. Position de l'Angleterre devant les problèmes mondiaux. Pp. 48. Paris: Flammarion Fils. 1937.

Einzig, Paul. World finance, 1935-1937. Pp. 358. N.Y.: Macmillan. 1937.

Elliott, William Yandell, and Others. International control in the non-ferrous metals. Pp. 822. N.Y.: Macmillan. 1937.

Erckner, S. Hitler's conspiracy against peace. Pp. 288. London: Gollancz. 1937.

Farley, Miriam S. America's stake in the far east. Pp. 39. N.Y.: Council, Inst. of Pacific Rels. 1937.

Fehlig, Hildegard. Die einseitige Aufhebung des Verlagsvertrags. Pp. 70. Leipzig: Moltzen. 1937.

Fischer, Heinz E. La colonisation juive en Palestine, ses étapes, ses difficultés. Pp. 176. Paris: Lipschutz. 1937.

Fischer, Louis. The war in Spain. Pp. 55. N.Y.: The Nation. 1937.

Fonteriz, Luis de. Red terror in Madrid. Pp. 111. N.Y.: Longmans. 1937.

Gascard, Horst. Die sogenannte völkerrechtliche Servitut in der Theorie und Staatenpraxis. Pp. 94. Würzburg: Mayr. 1936.

Gihl, Forsten. International legislation. London: Oxford Univ. Press. 1937.

Godden, G. M. Communism in Spain, 1931-1936. Pp. 22. N.Y.: Am. Press. 1937.

Gorbani, René. Die Auslieferung zwischen der Schweiz und Frankreich auf Grund des Auslieferungsvertrages vom 9. Juli 1869. Pp. 98. Bern: Hallwag. 1936.

Guerrero, J. G. L'Union panaméricaine et la société des nations. Pp. 60. Paris: Pedone. 1937.

Hayden, J. R. Pacific politics. Pp. 32. Minneapolis: Univ. of Minn. Press. 1937.

Henry, Paul. Le problème des nationalités. Paris: A. Colin. 1937.

Horne, E. H. The significance of air war. Pp. 68. London: Marshall, Morgan, & Scott. 1937.

Husain, Mahmud. The quest for empire. Pp. 238. Dacca: Author. 1937.

Johannsen, G. K., and Kraft, H. H. Germany's colonial problem. Pp. 96. London: Butterworth. 1937.

Kalijarvi, Thorsten Waino. Die Entstehung und rechtliche Natur des Memelstatuts und seine praktische Auswirkung bis zum heutigen Tag. Pp. 190. Berlin: Ebering. 1937.

Kennedy, A. L. Britain faces Germany. Pp. 194. London: Cape. 1937.

Krofta, K. La Tchécoslovaquie et la petite entente dans la politique actuelle de l'Europe. Pp. 68. Paris: Pedone. 1937.

Lasaroff, Manol W. Die völkerrechtliche Entwicklung bulgarisch nach dem Weltkrieg. Pp. 205. Berlin: Dümmlers. 1937.

- Manning, Charles A. W.* Peaceful change; an international problem. Pp. 201. N.Y.: Macmillan. 1937.
- Macaulay, Neil.* Mandates. Pp. 213. London: Methuen. 1937.
- McCain, W. D.* The United States and the Republic of Panama. Pp. 278. Durham (N.C.): Duke Univ. Press. 1937.
- McNeill-Moss, Geoffrey.* The siege of Alcazar; a history of the siege of the Toledo Alcazar, 1936. Pp. 329. N.Y.: Knopf. 1937.
- Mende, Gerhard von.* Der nationale Kampf der Russlandtürken. Pp. 196. Berlin: Weidmann. 1936.
- Noher, Erich.* Die internationalen Verträge über die Aus- und Einwanderung. Pp. 193. Affoltern am Albis: Weiss. 1937.
- Padmore, George.* Africa and world peace. Pp. 296. London: Secker & Warburg. 1937.
- Panhuy, Van, and Polman Gruys, P.* Corps index des traités et des conventions bilatéraux entre le royaume d'Italie et les autres états, en vigueur le 1 janvier 1933. Pp. 360. Paris: Pedone. 1937.
- Pantin, Vincent.* Britain is pawned! Pp. 114. London: King. 1937.
- Patterson, Ernest Minor*, ed. The United States and world war. Pp. 272. (Annals of Am. Academy of Political and Social Science, July, 1937.) Phila.: Am. Acad. of Pol. & Soc. Sci.
- Price, G. W.* In Morocco with the legion. Pp. 288. London: Beacon Lib. 1937.
- Quigley, Harold S.*, ed. Peace or war? (a conference at the University of Minnesota). Pp. 205. Minneapolis (Minn.): Univ. of Minn. Press. 1937.
- Rab, Fordham.* Guide to law of the sea. Pp. 358. N.Y.: Fordham Rab Publications. 1937.
- Radovanovitch, V. M.* L'entente balkanique devant le droit international. Pp. 52. Paris: Pedone. 1937.
- Schäber, Reinhard.* Der Beitritt zu völkerrechtlichen Verträgen. Pp. 87. Würzburg: Triltsch. 1937.
- Sebilléau, P.* Le Canada et la doctrine de Monroe. Pp. 220. Paris: Sirey. 1937.
- Sereni, Enzo, and Ashery, R. E.* Jews and Arabs in Palestine. Pp. 316. N.Y.: Hechalutz Press. 1936.
- Staley, Eugene.* Raw materials in peace and war. Pp. 326. N.Y.: Council on For. Rels. 1937.
- Strong, Anna Louise.* Spain in arms, 1937. Pp. 85. N.Y.: Holt. 1937.
- Strupp, K.* Le droit prophylactique de guerre du pacte de la S. D. N. et du pacte de Paris. Pp. 60. Paris: Pedone. 1937.
- Vidailhet.* La démocratie française et son impérialisme. Paris: A. Lesot. 1937.
- Vileisis, P.* La Lithuanie et le problème de la sécurité internationale. Pp. 248. Paris: Pedone. 1937.
- Vizetelly, Frank Horace, and Others.* The new international year book. Pp. 818. N.Y.: Funk & Wagnalls. 1937.
- Vondracek, F. J.* The foreign policy of Czechoslovakia, 1918-1935. N.Y.: Columbia Univ. Press. 1937.
- Wheeler-Bennett, John W., and Heald, Stephen*, eds. Documents on international affairs, 1935. Pp. 567. N.Y.: Oxford Univ. Press. 1937.

Articles

- Africa.* The emancipation of Egypt. *P. M. Brown.* Am. Jour. Int. Law. July, 1937.
- . Planning the Ethiopian campaign. *Emilio De Bono.* Harper's Aug., 1937.

American Foreign Relations. La politique étrangère des États-Unis. *Firmin Roz.* Rev. Pol. et Parl. July, 1937.

———. Immigration and naturalization, with special reference to the United States of America. *Henry B. Hazard.* Int. Law & Rels. June 5, 1937.

Armaments. Financing armament in the totalitarian state. *Calvin B. Hoover.* So. Atlantic Quar. July, 1937.

———. Arms over Europe. *Curt L. Heymann.* Current Hist. Aug., 1937.

British Foreign Relations. Britain and the air peril. *Jonathan Griffin.* Fortnightly. July, 1937.

Canada. Are we at war? *H. F. Angus.* Dalhousie Rev. July, 1937.

Diplomacy. Strategy and diplomacy in the Mediterranean. *David H. Popper.* For. Policy Rep. June 1, 1937.

———. The European stampede. *Pertinax.* Fortnightly. Aug., 1937.

Diplomatic Representation. Representation in the international commission of the Danube. *Ruth E. Bacon.* The growth of purpose in the law of diplomatic immunity. *Montell Ogdon.* The question of Canadian participation in inter-American conferences. *C. G. Fenwick.* Am. Jour. Int. Law. July, 1937.

Europe. The odds against Germany. *Willson Woodside.* Harper's. July, 1937.

———. French conservative opinion and England. *Henry Lémery.* Mitteleuropa. *C. F. Melville.* Nine. Cent. July, 1937.

———. Portugal and Spain. *W. C. Atkinson.* Dublin Rev. July, 1937.

———. Foreign affairs. *Sir Charles Petrie.* English Rev. July, 1937.

———. The Austrian tangle. *Countess of Listowel.* Quar. Rev. July, 1937.

———. Cross-currents in Danubian Europe. *Helen Fisher.* For. Policy Rep. July 15, 1937.

———. Politics and economics in central and eastern Europe. *D. Graham Hutton.* Int. Affairs. July-Aug., 1937.

———. Die Fehllösung von Versailles als Ursache der Krise unserer Zeit. *Dr. Grimm.* Zeitschrift f. Völkerrecht. Vol. XXI, No. 2, 1937.

Extradition. Extradition from the United States of American citizens under existing treaties. *A. K. Kuhn.* Am. Jour. Int. Law. July, 1937.

Far East. Bettering Sino-Japanese relations. *Akira Ariyoshi.* New economics in Sino-Japanese relations. *Sadaki Fukumoto.* Contemp. Japan. June, 1937.

———. Sino-Japanese relations. *H. St. Clair Smallwood.* Empire Rev. July, 1937.

———. How dangerous is Japan? *Marc T. Greene.* Current Hist. Aug., 1937.

Inter-American Relations. Pan-Americanism, economic and cultural. *George Wythe.* Southwest Rev. Jan., 1937.

———. The Buenos Aires conference, 1936. *Charles G. Fenwick.* For. Policy Rep. July 1, 1937.

International Law. Recognition of belligerency and the Spanish war. *V. A. O'Rourke.* Am. Jour. Int. Law. July, 1937.

International Organization. International organization of European rail transport. *Ruth D. Masters.* Int. Concil. May, 1937.

———. The United States and world organization during 1936. Int. Concil. June, 1937.

———. Changes in the structure of international society. *W. Friedmann.* Contemp. Rev. July, 1937.

———. The work of the international labour organisation. *J. Henry Richardson.* Pol. Quar. July-Sept., 1937.

International Relations. The bases of international relations. *D. P. Myers.* Am. Jour. Int. Law. July, 1937.

International Trade and Finance. Hot money: an international problem. *Herbert M. Bratter*. For. Policy Rep. June 15, 1937.

———. Expérience Roosevelt et expérience Blum: la revalorisation du pouvoir d'achat. *Henry Laufenburger*. La conférence parlementaire internationale du commerce à Paris (Mai 1937). *Léon Hennebicq*. Rev. Econ. Int. June, 1937.

League of Nations. China, Geneva, and the opium trade. *J. O. P. Bland*. Nat. Rev. July, 1937.

———. The resurrection of the league. *Leonard Woolf*. Pol. Quar. July-Sept. 1937.

Minorities. The Germans in Poland. *J. C. Hesse*. Jugoslavia and the Croat problem. *R. W. Seton-Watson*. Slavonic Rev. July, 1937.

Near East. Storm rising in Palestine. *Pierre Crabitès*. Atlan. Mo. July, 1937.

———. A future for Iran. *John C. Le Clair*. Current Hist. July, 1937.

———. A Palestine denouement. *Kenneth Williams*. Fortnightly. Aug., 1937.

Neutrality. The United States neutrality act of 1937. *James W. Garner*. Am. Jour. Int. Law. July, 1937.

———. Die neue Embargopolitik der Vereinigten Staaten von Amerika und das Neutralitätsrecht. *Dr. Keppler*. Zeitschrift f. Völkerrecht. Vol. XXI, No. 2, 1937.

Spain. L'Espagne évolue-t-elle vers la paix? *Georges Rotwand*. Les Basques dans la guerre civile espagnole. *Angel Marvaud*. Rev. Pol. et Parl. May, June, 1937.

———. Eye-witness in Madrid. *Geoffrey Cox*. Harper's. July, 1937.

———. The European war in Spain. *Wickham Steed*. Contemp. Rev. July, 1937.

———. A year of civil war in Spain. *Philip Robinson*. Nat. Rev. July, 1937.

———. Propaganda from Spain. *Fletcher Pratt*. Am. Mercury. Aug., 1937.

———. Red propaganda from Spain. *Douglas Jerrold*. Am. Rev. Summer, 1937.

Treaties. La réciprocité automatique en matière d'assurances sociales. *Barthélemy Raynaud*. Jour. Droit Int. Mar.-Apr., 1937.

———. International transportation by air: Warsaw convention. *W. M. Sheffield*. Cornell Law Quar. June, 1937.

———. Canada's water-tight compartments. *C. C. Hyde*. The Litvinoff assignment and the Belmont case. *P. C. Jessup*. Am. Jour. Int. Law. July, 1937.

War and Peace. The totalitarian war. *Fritz Ermath*. Int. Law and Rels. May 31, 1937.

———. The war boom begins. *John T. Flynn*. Harper's. July, 1937.

———. A constructive peace policy. *Lord Allen of Hurtwood*. Contemp. Rev. July, 1937.

———. Background of war: V. Who dares to fight?; VI. U.S.S.R. Fortune. July, Aug., 1937.

JURISPRUDENCE

Books

Barthel, Herbert. Die strafrechtliche Regelung der Vivisektion. Pp. 48. Dresden: Dittert. 1937.

Bell, Walter. Der Prozessbetrug. Pp. 53. Lengerich i. W.: Lengericher Handelsdr. 1937.

Bertschinger, Hans. Der Aussöhnungsversuch im bernischen Zivilprozess und seine Bedeutung auf dem Gebiete des Bundesrechts. Pp. 81. Bern: Stämpfli. 1936.

Caspary, A. Sur la notion de souveraineté en droit romain. Paris: Libr. gén. de Droit et de Juris. 1937.

Charliac, Henri. L'expertise en matière criminelle. Pp. 304. Paris: Dalloz. 1937.

Deyssing, Ernst. Das Objekt der Freiheitsberaubung. Pp. 77. Erlangen: M. Döres. 1937.

Diepgen, Erik. Beweiswürdigung bei Blutprobe. Pp. 37. Berlin: Ebering. 1937.

Eggenschwiler, Ernst. Die rechtliche Natur des staatsrechtlichen Rekurses an das Bundesgericht wegen Verletzung verfassungsmässiger Rechte der Bürger. Pp. 166. Bern: Stämpfli. 1936.

Joseph-Barthelemy. Précis de droit public. Pp. 327. Paris: Dalloz. 1937.

Kern, Corinne J. I was a probationer. Pp. 287. London: Chapman & Hall. 1937.

Kuhn, Arthur K. Comparative commentaries on private international law or conflict of laws. Pp. 393. N.Y.: Macmillan. 1937.

Kuttner, Gerhard. Der Schutz des Unternehmens nach deutschem und französischem Privatrecht. Pp. 72. Würzburg: Triltsch. 1936.

Mailland, F. W. Forms of action at common law. Pp. 103. N.Y.: Macmillan. 1937.

Mastronardi, Horaz. Die Stellung des Sachverständigen im Strafprozessrecht. Pp. 99. Ostermundigen: Buchdr. Ostermundigen. 1936.

Müller, Helmut. Der Grundsatz der Ständigkeit der Gerichte. Pp. 87. Tübingen: Böhlke. 1936.

Pörschmann, Erhard. Der minderjährige Sexualverbrecher und seine Stellung im Strafrecht. Pp. 134. Dresden: Dittert. 1936.

Posch, Reinhold. Die Stellung des Richters zum Gesetz im Strafrecht. Pp. 72. Köln: Orthen: 1937.

Skupin, Oswald. Der Billigkeitsgedanke im Verwaltungsrecht. Pp. 35. Rostock: Neumann. 1937.

Trawny, Otto. Die Wahrheitspflicht im österreichischen und reichsdeutschen Zivilprozess. Pp. 98. Emsdetten (Westf.): Lechte. 1937.

Weber, Robert. Die Stellung der Staatsanwaltschaft im nationalsozialistischen Strafverfahren. Pp. 105. Köln: May, 1937.

Williams, Sir R. V. Law and practice in bankruptcy. Ed. by I. B. Blagden and J. M. Buckley. 15th ed. Pp. 1096. London: Sweet & Maxwell. 1937.

Zingg, Edwin. Die Unterstellung von Zivilpersonen unter das Militärstrafrecht. Pp. 60. Frauenfeld: Huber. 1936.

Articles

Codification. The New York law revision commission and its program for 1937. *W. P. Rogers.* Cornell Law Quar. June, 1937.

———. Pending codification of aircraft liability law. *John H. Wigmore and Others.* Jour. of Air Law. July, 1937.

Comparative Law. Louisiana's legal system reappraised. *Gordon Ireland.* Must Louisiana resign to the common law? *Leonard Greenburg.* Tulane Law Rev. June, 1937.

———. The common law and the civil law in the British commonwealth of nations. *Sir M. S. Amos.* Harvard Law Rev. June, 1937.

Conflict of Laws. Les conflits interprovinciaux entre la loi française sur le contrat d'assurance et les lois locales d'Alsace et de Lorraine. *E. Stiefel.* Jour. Droit Int. Mar.-April, 1937.

———. Breach of promise in private international law. *Paul Weidenbaum.* N.Y. Univ. Law Quar. Rev. May, 1937.

———. The place of classification in private international law. *Josef Unger.* Bell Yard. May, 1937.

Crime. Crime and the native born sons of European immigrants. *Harold Ross.*

A comparison of county jail inmates with the working community from which they come. *H. D. Anderson and P. E. Davidson*. Jour. Crim. Law & Crim. July-Aug., 1937.

Criminology. Parole as social treatment. *Winthrop D. Lane*. Sentencing and the treatment of the criminal. *R. Clyde White*. A criminologist looks at social work. *Sheldon Glueck*. Social Service Rev. June, 1937.

Delinquency. Crime prevention from the cradle up. *Max W. Nohl*. A clinical method for diagnosing the seriousness of juvenile delinquency. *M. Durea and J. Palaty*. Jour. Crim. Law & Crim. July-Aug., 1937.

Holmes. Justice Holmes the dissenter. *Henry H. Townsend*. Conn. Bar Jour. Apr., 1937.

Law Reform. The reform of the law: V. The crown as litigant. *A. D. Hargreaves*. Nine. Cent. July, 1937.

Legal Philosophy. The *homo juridicus* and the inadequacy of law as a norm of life. *Giorgio del Vecchio*. Tulane Law Rev. June, 1937.

———. The social attitude of the civil law in the United States. *Harriet S. Daggett*. Social Forces. May, 1937.

———. The philosophy of contractual obligation. *R. J. Buer*. Marquette Law Rev. June, 1937.

———. Language, symbol cycles, and the constitution. *A. J. Levin*. U. S. Law Rev. May, 1937.

———. Constitution and court symbols. *Max Lerner*. Yale Law Jour. June, 1937.

———. Technology, centralization, and the law. *F. R. Aumann*. So. Atlantic Quar. July, 1937.

———. Teoria-pura del diritto e diritto sociale. *Luis Legaz Y Lacambra*. Riv. Int. Filos del Diritto. July-Oct., 1937.

Penology. Police and punishment among native Americans of the plains. *W. C. Macleod*. Jour. Crim. Law & Crim. July-Aug., 1937.

Pollock. Sir Frederick Pollock. *D. P. Heatley*. Jurid. Rev. June, 1937.

Procedure. The source of authority for rules of court affecting procedure. *Tyrrell Williams*. Wash. Univ. Law Quar. June, 1937.

———. Self-incrimination—what can an accused person be compelled to do? *Fred E. Inbau*. Jour. Crim. Law & Crim. July-Aug., 1937.

Res Judicata. Res judicata in federal tax cases. *Erwin N. Griswold*. Yale Law Jour. June, 1937.

Robinson. The jurisprudence of Edward S. Robinson. *T. W. Arnold*. Yale Law Jour. June, 1937.

LOCAL GOVERNMENT

Books

Carr, R. K. State control of local finance in Oklahoma. Pp. 282. Norman (Okla.): Univ. of Okla. 1937.

Cole, William Earl, and Crowe, Hugh Price. Recent trends in rural planning. Pp. 594. N.Y.: Prentice-Hall. 1937.

Das Ehrenamt und die ehrenamtliche Tätigkeit in der deutschen Gemeindeordnung. Pp. 20. Berlin: Dt. Arbeitsfront, Amt f. Arbeitsführg u. Berufserziehg. 1937.

E. and O. E., eds. Planning: an annual notebook, 1937. Pp. 305. London: Architect & Building News.

Hill, H. A., and Nicholls, A. W. The complete law of town and country plan-

ning and the restriction of ribbon development. Pp. 650. London: Butterworth: 1937.

Lane, William H. A history of electric service in Detroit. Pp. 91. Detroit (Mich.): Detroit Bur. of Governmental Research. 1937.

Local government annual and official directory, 1937. London: Local Govt. Jour. 1937.

McQuillin, Eugene. The law of municipal corporations. Vol. 6. 2d ed. rev. Pp. 1302. Chicago: Callaghan. 1937.

Moriarty, Cecil. Police law: an arrangement of law and regulations for the use of police officers. Pp. 508. London: Butterworth. 1937.

Rankin, Rebecca B. Guide to the municipal government, city of New York. Pp. 106. Brooklyn (N.Y.): Eagle Lib. 1937.

Rosenfield, Isadore, and Others. Housing and town planning in the soviet union. Pp. 12. N.Y.: Am. Russian Inst. 1937.

Tolman, Frank L. Digest of county library laws in the United States, 1936. Pp. 105. Chicago: Am. Lib. Assoc. 1937.

Yearbook of international association of chiefs of police, 1936-37. Pp. 244. Chicago: Pub. Admin. Service. 1937.

Articles

Accounting. Municipal accounting systems. *S. W. Starr.* Municipal accounting statements. *Olney L. Craft.* Commonwealth Rev. May, 1937.

———. Classification of municipal income and expenditures. *Arthur N. Lorig.* Accounting Rev. June, 1937.

Brussels. Belgium and Brussels. *Emile Vinck.* Local Govt. Admin. June, 1937.

Budgeting. What a county budget should contain. *Paul V. Lane.* Tax Digest. June, 1937.

———. Local budget control by state tax commissions. *Rudolf F. Bertram.* Tax Mag. Aug., 1937.

City Government. A professor in politics. *O. W. Hoop.* Southwest Rev. Jan., 1937.

———. Modern tendencies in city government. *Hollis R. Thompson.* Commonwealth Rev. May, 1937.

City Manager. A day in a city manager's life. *A. H. Wedge.* Pub. Management. July, 1937.

County Government. Indiana counties and townships. *Clyde F. Snider.* Ind. Mag. Hist. June, 1937.

———. Government as well as politics. *Victor Jones.* So. Atlantic Quar. July, 1937.

Elections. Significance of the coming municipal election in New York. *I. Amter.* Communist. July, 1937.

England. The future of local government on Tyneside and elsewhere. *Henry Mess.* Nine. Cent. July, 1937.

Federal Relations. Federal assistance to municipal recovery. *Wylie Kilpatrick.* Nat. Mun. Rev. July, 1937.

Finance. Municipal economy through financial control. *Olney L. Craft.* Commonwealth Rev. May, 1937.

Fire Protection. Qualifications of a good fire marshal. *Eugene Sanders.* Tex. Municipalities. June, 1937.

Health. Milk control. *Thomas Orr.* The problem of smoke and dust. *J. J. Jervis.* The English public health act. *John J. Clarke.* Local Govt. Admin. June, 1937.

———. Inaugurating grade A pasteurized milk in the city of Chicago. *H. N. Bundesen*. Am. Jour. Pub. Health. July, 1937.

———. Public health aspects of the auto trailer problem. *F. L. Woodward*. Minn. Municipalities. July, 1937.

———. The new public health program. *I. F. Thompson*. The Municipality. Aug., 1937.

Home Rule. Delegability of police power to non-municipal public corporations in home-rule states. *George Washington Law Rev.* May, 1937.

Housing. Developing a housing program in a southern city. *L. M. Graves* and *A. H. Fletcher*. Am. Jour. Pub. Health. July, 1937.

Parking Meters. Parking and the constitutionality of "parking meter" ordinances. *Ia. Law Rev.* May, 1937.

Parks and Recreation. Parks, playgrounds, and recreation. *H. L. Kellogg*. Ill. Mun. Rev. July, 1937.

———. Measuring public recreation systems. *C. E. Ridley* and *H. A. Simon*. Pub. Management. Aug., 1937.

Peddlers. The itinerant peddler. *Okla. Mun. Rev.* June, 1937.

Personnel. A municipal personnel system. The Municipality. July, 1937.

Poland. Local government in Poland. *Alexander Block*. Local Govt. Admin. June, 1937.

Richmond. Sidelights into the history of the government of Richmond, Virginia. *J. F. Bright*. The history of Richmond's water supply. *G. H. Whitfield*. Sketch of the history of fire prevention and protection in Richmond. *L. S. Jones*. The history of the Richmond police department. *R. B. Jordan*. Mayors of Richmond. *Helen Berry*. Historic events in Richmond's legislative bodies. *E. S. Bolen*. Va. Munic. Rev. Apr., 1937.

Tourist Camps. House trailer and tourist court regulations. Tex. Municipalities. July, 1937.

Traffic Regulation. How you can make your municipality safe. *B. L. Corbett*. The Municipality. July, 1937.

Urbanization. Middletown comes clean. *C. E. Ayres*. Southern Rev. Summer, 1937.

POLITICAL THEORY AND MISCELLANEOUS

Books

Armor, Guy d'. Communisme ou royauté. Paris: F. Sorlot. 1937.

Ashton, E. B. The fascist: his state and his mind. Pp. 320. N.Y.: Morrow. 1937.

Authority and the individual: Harvard tercentenary publication. Pp. 371. Cambridge (Mass.): Harvard Univ. Press. 1937.

Baudin, L. L'Utopie soviétique. Pp. 67. Paris: Sirey. 1937.

Birch, Frank. This freedom of ours. Pp. 242. Cambridge (Mass.): Harvard Univ. Press. 1937.

Bouvier Ajam, M. La doctrine corporative. Pp. 200. Paris: Sirey. 1937.

Brown, Burdette Boardman. Democratic opinions and experience. Pp. 73. Los Angeles: Times-Mirror Press. 1937.

Cergy, Jacques. Défense de la démocratie par un homme de la rue. Paris: Denoël. 1937.

Chanson, Paul. Communisme et corporatisme. Paris: Ed. du Cerf. 1937.

Coil, Stanton. The one sure foundation for democracy. Pp. 63. London: Watts. 1937.

Colman, Louis. "Equal justice"; year book of the fight for democratic rights, 1936-1937. Pp. 104. N.Y.: Int. Labor Defense. 1937.

- Comes, S.* L'organisation corporative de l'industrie en Espagne, une expérience interrompue. Pp. 350. Paris: Chauny & Quinsac. 1937.
- Cram, Ralph A.* The end of democracy. Pp. 270. Boston: Marshall Jones. 1937.
- Curtis, Lionel.* Civitas Dei. Vol. 2. Pp. 601. London: Macmillan. 1937.
- Cuvillier, Armand.* Proudhon. Pp. 280. Paris: E.S.I. 1937.
- Davoli, Joseph C.* Communism and the masses. Pp. 24. N.Y.: Am. Press. 1937.
- Demieville, G.* Le communisme, science de trahison et de meurtre, tactique de guerre et de révolution. Pp. 164. Paris: V. Attinger. 1937.
- Dugdale, J. E.* Further papers on the social sciences: their relations in theory and teaching. London: Le Play House Press. 1937.
- Dyckmans, Wilhelm.* Das mittelalterliche Gemeinschaftsdenken unter dem Gesichtspunkt der Totalität. Pp. 179. Paderborn: Schöningh. 1937.
- Education for democracy. Proceedings of the 19th American Country Life Conference, Kalamazoo, Michigan. Pp. 183. Chicago: Chicago Univ. Press. 1937.
- Elliott, Sydney R.* England, cradle of coöperation. Pp. 287. London: Faber. 1937.
- Fargues, Paul.* Socialisme et communisme. Paris: Fischbacher. 1937.
- Fyfe, Hamilton.* What communism means today. Pp. 164. London: Nisbet. 1937.
- Gillin, John L.* Poverty and dependency. Rev. ed. Pp. 763. N.Y.: Appleton-Century. 1937.
- Gilson, Etienne.* The philosophy of St. Thomas Aquinas. Pp. 387. St. Louis (Mo.): B. Herder. 1937.
- Government statistics (Social Sci. Research Bull. no. 26). Pp. 188. N.Y.: Social Sci. Research Council. 1937.
- Greenberg, Louis S.* Nationalism in a changing world. Pp. 154. N.Y.: Greenberg. 1937.
- Halperin, S. W.* The separation of church and state in Italian thought from Cavour to Mussolini. Pp. 124. Chicago: Univ. of Chicago Press. 1937.
- Hearnshaw, F. J. C.* Some great political idealists of the Christian era. Pp. 274. London: Harrap. 1937.
- Hearnshaw, F. J. C.* Prelude to 1937: being a sketch of the critical years A.D. 1931-1936. Pp. 189. London: Murray. 1937.
- Kellett, E. E.* The story of dictatorship from the earliest times till today. Pp. 231. N.Y.: Dutton. 1937.
- Kohn, Hans.* Force or reason. Pp. 167. Cambridge (Mass.): Harvard Univ. Press. 1937.
- La Farge, John.* Communism's threat to democracy. Pp. 16. N.Y.: Am. Press. 1937.
- Lenin, Nikolai.* The period of war communism, 1918-1920. (V. Lenin, selected works, vol. 8.) N.Y.: Int. Pubs. 1937.
- Lewis, C. D.* The mind in chains: socialism and the cultural revolution. Pp. 256. London: Muller. 1937.
- Loos, Volker.* Begriff und Idee des organischen Staates. Pp. 72. Darmstadt: Roether. 1937.
- McNabb, Vincent, and Strachey, John.* Communism or distributism: a debate. London: Distributist League. 1937.
- Marlen, George.* Earl Browder. Pp. 493. N.Y.: Author. 1937.
- Mirsky, D. S.* Lenin. Pp. 238. London: Holme Press. 1937.
- Murry, John M.* The necessity of pacifism. Pp. 132. London: Cape. 1937.
- Nardelli, Matteo.* Fascismo idea universale. Pp. 235. Trent. 1936.
- Petrie, Sir Charles.* Mussolini. Pp. 196. London: Holme Press. 1937.
- Pring, Beryl.* Education, capitalist and socialist. Pp. 290. London: Methuen. 1937.

Roche, Alphonse V. Les idées traditionalistes en France de Rivarol à Charles Maurras. Pp. 235. (Illinois Studies in Language and Literature, vol. 21, nos. 1-2.) Urbana (Ill.): Univ. of Ill. 1937.

Rutten and Others. La réforme de l'état. Pp. 144. Paris: Libr. Mignard. 1937.

Sombart, Werner. A new social philosophy. Pp. 307. Princeton (N.J.): Princeton Univ. Press. 1937.

Spender, Stephen. Forward from liberalism. Pp. 281. N.Y.: Random House. 1937.

Spring, Gerald M. Nationalism on the defensive. Pp. 56. Glendale (Calif.): Arthur H. Clark Co. 1937.

Stalin, Joseph. Mastering bolshevism. Pp. 62. N.Y.: Workers Lib. Pubs. 1937.

Vizeletly, Frank H., and Burchard, Marion J. Funk and Wagnalls new standard encyclopedia year book for 1938. Pp. 544. N.Y.: Funk & Wagnalls. 1937.

Warfel, Harry R., and Others, eds. The American mind; selections from the literature of the United States. Pp. 1600. N.Y.: Am. Book Co. 1937.

Yutang, Lin. A history of the press and public opinion in China. Pp. 179. London: Oxford Univ. Press. 1937.

Articles

Capitalism. Il rapporto di priorità fra Stato e proprietà. *Friedrich Darmstaedter.* Riv. Int. Filos. del Diritto. May-June, 1937.

Democracy. The indiscipline of democracy. *F. J. C. Hearnshaw.* Nat. Rev. July, 1937.

———. Philosophy and democracy. *T. V. Smith.* Int. Jour. Ethics. July, 1937.

———. Militant democracy and fundamental rights, II. *Karl Loewenstein.* Am. Pol. Sci. Rev. Aug., 1937.

Distributism. Neither capitalism nor socialism. *Hilaire Belloc.* Am. Mercury. July, 1937.

Fascism. The philosophy of fascism. *Paul R. Anderson.* Social Sci. July, 1937.

———. The truth about American fascism. *Harold Lord Varney.* Am. Mercury. Aug., 1937.

Liberalism. A key to southern liberalism. *F. L. Owsley.* Southern Rev. Summer, 1937.

Nature of the State. Pluralità di ordinamenti giuridici nell'unità dello Stato. *Vitale Viglietti.* Stats etico e Stato di diritto. *Felice Battaglia.* Riv. Int. Filos. del Diritto. May-June, July-Oct., 1937.

People's Front. The communists in the people's front. *Earl Browder.* Communist. July, 1937.

Sovereignty. Law and sovereignty. *J. Roland Pennock.* Am. Pol. Sci. Rev. Aug., 1937.

Trotsky. Leon Trotsky: martyr or renegade? *Frederick L. Schumann.* Southern Rev. Summer, 1937.

GOVERNMENT PUBLICATIONS

MILES O. PRICE

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AMERICAN

UNITED STATES

Civil Service Commission

Civil service employees and their apportionment by states; letter transmitting, in response to resolution, certain statistical information relative to civil service

employees and their apportionment by states. Washington: Govt. Ptg. Off., 1937. 14 p. (S. Doc. 57, 75th Cong., 1st sess.).

Congress

House of representatives. Immigration and naturalization committee. To authorize prompt deportation of criminals and certain other aliens, hearings, 75th Congress, 1st session, on H. R. 5573 . . . Washington: Govt. Ptg. Off., 1937. 32p.

Senate. Index of congressional committee hearings (not confidential in character) in Senate library, supplement Jan. 3, 1935-Jan. 5, 1937 . . . Washington: Govt. Ptg. Off., 1937, 148 p.

— *District of Columbia committee.* Small claims and conciliation court, hearings, 75th Congress, 1st session, on S.1835, establishing small claims and conciliation branch in Municipal Court of District of Columbia for improving administration of justice in small cases and providing assistance to needy litigants. Washington: Govt. Ptg. Off., 1937. 158 p.

— *Education and labor committee.* Violations of free speech and rights of labor, hearings before subcommittee, 75th Congress, 1st session, pursuant to S. Res. 266 (74th Congress), to investigate violations of right of free speech and assembly . . . Washington: Govt. Ptg. Off., 1937. pt. 6, 1871-2231 p.

— *Executive agencies of government, select committee on investigation of.* Investigation of executive agencies of government, report to select committee . . . ; prepared by Brookings Institution. Washington: Govt. Ptg. Off., 1937. (Three pamphlets, numbers 2, 3 and 4)

— *Judiciary committee.* Reorganization of federal judiciary, hearings, 75th Congress, 1st session, on S. 1392, to reorganize judicial branch of Government. Washington: Govt. Ptg. Off., 1937. pts. 2-4, xi, 167-1006 p.

Library of Congress

Bibliography division. Branch, group, and chain banking, list of recent writings; compiled by Anne L. Baden. Washington, 1937. 30 p. (processed)

— Permanent Court of International Justice, references supplementing previous lists; compiled by Florence S. Heilman . . . Washington, 1937. 8 p. (mimeo.)

— *Legislative reference service.* Creation of Senate, monograph relating to creation of Senate; prepared by George J. Schulz. Washington: Govt. Ptg. Off., 1937. 70 p.

State Department

American delegations to international conferences, congresses, and expositions, and American representation on international institutions and commissions, with relevant data, fiscal year 1936. Washington: Govt. Ptg. Off., 1937. 162 p. (Conference series 30)

Damages in international law, by Marjorie M. Whiteman, assistant to the legal adviser, Department of State. Washington: Govt. Ptg. Off., 1937. 2v.

(This is a very important publication, in two large volumes containing a commentary on the law of damages in public international law, with copious references to the documents, and with many of the documents reproduced in full.)

— International traffic in arms, laws and regulations administered by Secretary of State governing international traffic in arms, ammunition, and implements of war and other munitions of war. 4th ed. Washington: Govt. Ptg. Off., 1937. 33p.

Works Progress Administration

Federal emergency relief administration. Chronology of federal emergency relief administration, May 12, 1933-Dec. 31, 1935; by Doris Carothers. Washington: Govt. Ptg. Off., 1937. 163 p. (Research monograph 6)

STATE AND TERRITORIAL

CALIFORNIA

Dept. of finance. Bureau of public administration. California state government. An outline of its administrative organization from 1850 to 1936, by Elsey Hurt. Sacramento, 1937. 252 p.

University of California, Berkeley. Bureau of public administration. This bureau has issued a number of small mimeograph publications, bearing such titles as state fiscal organization; the status of civil service in California; the use of special committees and commissions by the California legislature; governmental research organizations in the western states. . .

CONNECTICUT

Commission concerning the reorganization of the state departments. Report. . . Hartford, 1937. 580 p.

LOUISIANA

Bureau of government research. The reorganization and consolidation of state administration in Louisiana. Baton Rouge, L. S. U. Press, 1937. 270 p.

NEW YORK

Commission for the revision of the tax laws. Experience with over-all tax limitation laws. . . Albany, 1937. 47 p.

Legislature. The clerk's manual of rules, forms, and laws for the regulation of business in the senate and assembly of the state of New York. . . Albany, 1937. 517 p.

——— *Joint committee to investigate automobile insurance.* Report. . . Albany, 1937. 191 p.

OHIO

Secretary of state. The constitution of the state of Ohio, annotated, 1937, amendments and annotations to January 1, 1937, and the constitution of the United States. Cleveland, Banks-Baldwin company, 1937. 32, 7 pp.

OREGON

State planning board. Proceedings of the Oregon planning conference held in Portland, January 7 and 9, 1937, under the auspices of the state planning board. Salem, 1937. 34 p. (mim.)

RHODE ISLAND

State planning board. Planning and zoning in Rhode Island, by John Hutchins Cady and Howard K. Mehnhinick. Providence, 1937. 41 p. (mim.)

SOUTH DAKOTA

State planning board. Land ownership in South Dakota as of March 1, 1934. A preliminary report. . . February, 1937. Brookings, 1937. 176 p. (mim.)

FOREIGN AND INTERNATIONAL

ARGENTINE REPUBLIC

Ministerio de relaciones exteriores: Traité général pour developper les moyens de conserver la paix. Buenos Ayres, 1936.

BRAZIL

Arquivo nacional. . . . Documentos historicos. v. 33-35. Rio de Janeiro, 1937.

ECUADOR

Ministerio de relaciones exteriores. El Ecuador y sus limites mendiorales . . . Quito 1937.

UNION OF SOCIALIST SOVIET REPUBLICS

Gosudarstvennaya planovaya kommissiya. The second five-year plan (1933-1937) New York, 1937.

LEAGUE OF NATIONS

International convention concerning the use of broadcasting in the cause of peace. (Geneva, September 23, 1936.) Geneva, 1937. 10 p. (XII. B. Bureaux Internationaux 1937. XII.B.1.)

Appeal by the Spanish government. White book published by the Spanish government and presented to the Council on May 28, 1937. Geneva, 1937. 140 p. (Official Journal, Special supplement no. 165. Contains many reproductions purporting to be of Italian documents indicating Italy's active participation in the civil war.)

Committee for the international repression of terrorism. Report adopted by the Committee on April 26, 1937. Geneva, 1937. 13 p. (V. Legal. 1937. V. 1)

Conference for the suppression of the illicit traffic in dangerous drugs. Records . . . Text of the debates. Geneva, 1936. 241 p. (1936. XI. 20. Though dated 1936, this was issued in the middle of 1937).

Economic intelligence service. Prosperity and depression; a theoretical analysis of cyclical movements, by Gottfried von Haberler, Geneva, 1937. 363 p. (Chapter 11 is entitled "international aspects of business cycles".)

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KENNETH COLEGROVE¹
Northwestern University

The Japanese constitution of 1889 is not, as is frequently assumed, chiefly the product of the labors of Hirobumi Ito and his secretaries who, in 1882-1883, studied constitutional systems in Europe preparatory to drafting the text of the fundamental law which the Emperor had promised in the celebrated rescript of 1881. Discussion of constitutional progress had begun as far back as 1867 and, immediately following the restoration, Meiji statesmen began the task of drafting projects of a constitution. Okubo, Goto, Kido, and Itagaki played leading rôles in urging the adoption of a national charter, and when Okubo and Kido relaxed their efforts, Itagaki initiated a popular campaign. Finally, in 1876, a formal commission of the *Genro-in* (Senate) was appointed to draft a constitution, while in 1880, its completed project was laid before the Emperor. This draft proposed a form of government having many features of the British parliamentary system. Along with the progressive memorial of Okuma, it drew the fire of Prince Iwakura, whose *Koryo* (theses), in 1881, after the forced resignation of Okuma from the Government, laid down the new basis of constitution-making upon which Ito later built.

Again, the fundamental law of Japan is not to be viewed simply as one written document. The *Kempo* (constitution) was far from being the only law proclaimed by the Emperor on February 11, 1889. On the same date, the Emperor decreed: (1) the Imperial House Law, regarding the succession to the Throne; (2) the Imperial Ordinance concerning the House of Peers, providing for the composition and procedure of the upper chamber of the Diet; (3)

¹ The author acknowledges assistance in the preparation of this study from a grant-in-aid given by the Social Science Research Council of New York City.

the Law of the Houses, regarding the organization of both chambers of the Diet; (4) the Law of Election of the Members of the House of Representatives; and (5) the Law of Finance.² More than this, the cabinet was created by an imperial rescript issued four years prior to the proclamation of the constitution and the privy council by an ordinance one year prior to this event.³ Finally, if the Japanese constitution is to be viewed as a pattern of national life, it is necessary to take into consideration a large body of custom and usage. For instance, the practice requiring the appointment of only high-ranking army and naval officers to the portfolios of war and marine is not prescribed in the constitution of 1889 nor in any law of the Diet; it was followed for years before it was expressed in an imperial ordinance.⁴ Many such customs, not a few of them found in imperial rescripts and ordinances, are to be considered as parts of the fundamental law, and, indeed, are so viewed in the standard treatises on constitutional law.⁵ Much of the custom and tradition, such as the *Kokutai* (fundamental principle of Japanese polity) and the *Iaku no Gummū* (supreme mili-

² The texts of all these laws and ordinances are found in convenient form in Hirobumi Ito, *Teikoku Kempo Koshitsu Tempan Gikai*, or "Commentaries on the Constitution and the Imperial House Law of the Empire of Japan" (Tokyo, 1889). The official English translation of these commentaries, together with the constitution and other laws, is entitled *Commentaries on the Constitution of Japan by Count Hirobumi Ito* (trans. by Miyoji Ito, Tokyo, 1889). There are two other editions of this translation under dates of 1900 and 1931.

³ The imperial rescript creating the cabinet in place of the *Dajokwan*, or council of state, was issued as Imperial Proclamation No. 69, on December 22, 1885. See the *Horei Zensho*, or "Collection of Laws and Ordinances" (Tokyo, 1890), 1885, pp. 3, 1044. The *Sumitsuin Kansei oyobi Jimu Kitei*, or Imperial Ordinance Regarding the Organization and Procedure of the Privy Council, commonly cited as Imperial Ordinance No. 22 of 1888, is found in the *Nippon Ruiten*, or "Code of Laws" (ed. by S. Ichiooka, Tokyo, 1889). An English translation, as published in Captain Frank Brinkley's *Japan Weekly Mail*, May 12, 1888, pp. 444-445, is reprinted in W. W. McLaren, "Japanese Government Documents," in *Transactions of the Asiatic Society of Japan* (Tokyo, 1914), Vol. XLII, pt. 1, pp. 127-132.

⁴ In spite of the importance of the custom prohibiting the appointment of civilians as ministers of war and the navy, this practice found legal expression, and then only by implication, in the *fuhyo*, or attached list, of the Imperial Ordinance regarding the Organization of the Navy Department, No. 194, May 19, 1900, and in the Imperial Ordinance regarding the Organization of the War Department, No. 75, April 15, 1903. See the *Genko Horei Shuran*, or "Compilation of Laws and Ordinances in Force" (Tokyo, 1907), Vol. I, pt. iii, pp. 66, 104-105.

⁵ Compare Yatsuka Hozumi, *Kempo Teiyo*, or "Principles of the Constitution" (Tokyo, 1910), Vol. I, pp. ii-v; Tatsukichi Minobe, *Kempo Satsuyo*, or "Principles of the Constitution" (Tokyo, 1932), pp. 98-118.

tary command of the Emperor), find their roots in two thousand years of Japanese history.

PARTICIPANTS IN THE CONSTITUTIONAL DEVELOPMENT

The period 1867–1889, from the Restoration to the promulgation of the constitution, in its entirety, requires the attention of the student of the Japanese constitution. It should be added that constitutional development does not end with the year 1889, for the parliamentary system of Japan in 1890 is as different from that in 1930 as the British parliament of George I differs from that of George VI.

If the drama of constitutional development is viewed in relation to the actors, the *personae dramatis* in the opening scenes are few in number in comparison with the participants as the play unfolds. In the closing days of the Tokugawa shogunate, when the political equilibrium was destroyed, the absolutist government that had ruled Japan for centuries was broken, and a share in political control was given to a small group of *daimyos*, or feudal lords, and *kuge*, or court nobles. In a short time, a considerable number of *samurai*, or feudal retainers, were admitted to the governing class. Still later, under the pressure of popular demand, the national Diet was established, with, however, a very limited suffrage for the House of Representatives. Once the people were given a part in public deliberation, the suffrage by successive laws was increased until the year 1925 witnessed the establishment of universal manhood suffrage. And in the wake of this reform various *musanto*, or political parties of the working masses, have appeared and have pushed their way into the "bourgeois" Diet. But all this does not necessarily mean a consistent broadening of popular control over actual government. It may be said that the constitution was a compromise between the Choshu, Satsuma, Tosa, and Hizen clans, the bureaucrats and capitalism, and that an alliance of these interests dominated the government for three decades of parliamentary history. By the year 1918, the alliance had been shifted; political parties reached an understanding with monopolistic capitalism and were on the road to complete ascendancy. Suddenly, in 1931, with the invasion of Manchuria, political parties were pushed aside by the militarists and bureaucrats, who now, in alliance with monopolistic capitalism, are the actual rulers of the Japanese Empire.

THE IDEOLOGICAL BACKGROUND OF
CONSTITUTIONAL DEVELOPMENT

Japanese constitutional development should be viewed also from the ideological aspect. Here we find that in the closing days of the shogunate the classical *Tendo* (way of heaven) inherent in Oriental political philosophy which emphasized loyalty to the Emperor met the impact of Occidental philosophy which defended the liberty of the individual.⁶ The resulting conflux, which went under the name of *Tenchi no Kodo* (open road of the universe), was recognized in the Charter Oath of 1868. With the spread of translations of Western books came the doctrines of *Kogi Yoron* (free discussion and public opinion) by parliamentary means, of *Tempu Jinken* (natural rights of man) drawing heavily upon the philosophy of Locke and Rousseau, and of *Jiyu Minken* (civil and political rights). With the rise of political parties, Itagaki, Fukuzawa, and Okuma crystallized the doctrine of *Yoron Seiji* (government based on public opinion) and promoted propaganda campaigns for *Seito Naikaku* (government by a party cabinet) in imitation of the British parliamentary system.

In resistance to these popular demands, conservatives rallied around the doctrines of *Kintei Kempo* (a constitution emanating solely from the Emperor), *Kokutai Hoshu* (preservation of the *kokutai*, or fundamental principle of Japanese polity), *Rikken Zen-shin* (gradual approach toward constitutional government), and *Taiken Naikaku* (a cabinet operating only under the imperial prerogative), together with a complete negation of political parties as a factor in the constitutional system. Both sides acclaimed the pre-Meiji doctrine of *Kinno* (loyalty to the Emperor). All of these conflicting aspirations were realized, in part, in the constitution of 1889. The clans, bureaucrats, and militarists, in alliance with capitalism, remained in control of the government. But political parties appeared in the first session of the Diet and soon began

⁶ Compare Yasuzo Sasuhara, *Meiji Seishi*, or "Political History of the Meiji Era," in the *Meiji Bunka Zenshu*, or "Materials on the Cultural History of the Meiji Era" (ed. by Sakuzo Yoshino, Tokyo, 1928), Vol. I, pp. 33-47; Takeshi Osatake, *Nippon Kensei Shi*, or "Constitutional History of Japan" (Tokyo, 1930), pp. 18-33; and his *Ishin Zengo-ni okeru Rikken Shiso*, or "Constitutional Ideas of the Restoration Period" (Tokyo, 1929), pp. 1-37; Keiji Okamoto, *Meiji-Taisho Shiso Shi: Kokka oyobi Kokumin Seikatsu no Jisso-o Josu*, or "History of Ideas in the Meiji and Taisho Eras: The Life of the State and the Nation" (Tokyo, 1929), pp. 19-81.

their struggle to capture control of the cabinet on the plea that a parliamentary system on the British model was not repugnant to the new constitution. After many defeats, political parties in a large measure achieved their objective in the period 1918 to 1931. In the early decades of the twentieth century, as the traditional political parties became more obviously the agents of monopolistic capitalism, their right to speak for the "submerged" masses was challenged by the new *musanto* (political parties of the working masses) imbued with Marxian dialectics. The invasion of Manchuria was followed by a rout of the political parties and a return to the transcendental cabinets that characterized the period when Prince Yamagata dominated the political arena, while the army sought to win the support of the masses by an ideological campaign which has borrowed from both Marxian doctrine and the classical *Tendo*.

DEMAND OF THE INTELLECTUALS FOR KOGI YORON

The enthusiasm for Western ways that engulfed Japan after the visit of Commodore Perry in 1853 had not been limited to studies of the science, industry, and education of Europe and America. Equal attention was directed to government and politics. The shogun's envoys who visited the United States and Europe in 1865, as well as the members of Prince Iwakura's mission, which included Okubo, Kido, and Ito, and which returned to Japan in 1873 after a two years' tour of both hemispheres, were impressed with the legislatures which they had inspected.⁷ They found that parliamentary institutions were as characteristic of modern civilization as were the telegraph, the railway, the factory, anesthetics in surgery, or the capitalist system itself. A younger generation of Japanese who had mastered European languages seized upon the Western literature of government and political philosophy. In particular, scholars like Keiu Nakamura translated the standard essays and treatises on politics. Among early translations in Japanese were Rousseau's *Contrat social* and John Stuart Mill's *Liberty*.⁸ Every year saw several new renditions of the political clas-

⁷ Compare Takeshi Osatake, *Iteki no Kuni-e: Bakumatsu Kengai Shisetsu*, or "To Strange Lands: Accounts of the Envoys Sent Abroad by the Shogunate" (Tokyo, 1929).

⁸ See the chronological table of political literature in the *Meiji Bunka Zenshu* (ed. by Yoshino), Vol. V, pp. 511-517; VII, pp. 551-573.

sics. By 1875, four different translations of Montesquieu's *Spirit of the Laws* had come from the Japanese press. More than this, Yukichi Fukuzawa and other scholars published books interpreting Western political ideas for their countrymen. Natural rights as expounded by Locke and Rousseau, the preservation of liberty by means of the separation of powers as elucidated by Montesquieu, the political philosophy of the British utilitarian school, as well as the economic doctrines of Adam Smith, were explained in numerous works. Fukuzawa's *Eikoku Giji-in Dan* ("Talks on the British Parliament"), published in 1869, had a wide sale, and his *Gakumon no Susume* ("Promotion of Learning"), published in seventeen small volumes, in 1872-1876, had a sale of over one million copies. Many books included descriptions of the British parliamentary system—a mechanism which particularly captured the fancy of Japanese intellectuals. At the same time, schools founded by enthusiastic scholars continued the propagation of Western political ideas. One of these, Fukuzawa's *Keio Gijuku*, established in 1868, was the beginning of Keio University.⁹ Later, more aggressive study centres, like the *Risshi Sha* (Aspirants' Club) in Tosa province, preached the gospel of *Kogi Yoron* and *Jiyu Minken*. As a result, throughout Japan, the intelligentsia talked of equality, liberty, public opinion, popular deliberation, separation of powers, and parliamentary government as glibly as of Western science, art, and industry.

THE CHARTER OATH AND THE SEITAI SHO OF 1868

The Tokugawa shogunate was fully aware of the demand for *Kogi Yoron*. In the memorable letter of resignation which Shogun Yoshinobu (Keiki) addressed to the Throne in 1867, he offered to surrender his political power on condition that the affairs of state be directed by the imperial court in conjunction with *public opinion widely collected*.¹⁰ It is clear, however, that the public opinion to which the shogun referred was to embrace no more than an assembly representing the 276 daimyos or feudal lords. This may also have been the meaning of the first article in the first draft of the Charter Oath which the fifteen-year-old Emperor issued on April 6, 1868, reading: "We shall create an assembly on a wide

⁹ See his unfinished autobiography under the title of *Fuku-o Ji Den*, or "The Autobiography of a Happy Old Man" (Tokyo, 1901).

¹⁰ Compare Eiichi Shibuzawa, *Tokugawa Yoshinobu Ko Den*, or "Biography of Prince Yoshinobu Tokugawa" (Tokyo, 1917), Vol. VII, pp. 183-184.

basis whereby to decide all governmental questions through public opinion (*koron*)," although Koin Kido at least seems to have intended a more extensive basis for ascertaining public opinion.¹¹ The oath was issued, of course, upon the advice of the small group of daimyos, court nobles, and samurai who had planned and achieved the restoration. Particularly Kimimasa (Kosei) Yuri, of the Echizen clan, Kotei Fukuoka (Tosa clan), and Koin Kido (Choshu clan) played leading rôles in its drafting and promulgation.¹² And, significantly, Fukuoka later admitted that the dire need of the imperial court for funds to finance the expedition against the northeastern daimyos partly dictated its issuance, while the business firms of Mitsui, Shimada, Ono, and others were asked to supply a large part of this military expenditure.¹³

On May 13, 1868, the statesmen of the restoration followed up the Charter Oath with the promulgation of the *Seitai Sho* ("Declaration of the Form of Government").¹⁴ By this decree, the powers

¹¹ This document, called the *Gokajo no Goseimon* (Coronation Oath of Five Articles), was issued on April 6 (old style March 14), 1868. For the text of the oath as promulgated, see *Shimbun Shusei Meiji Hennen Shi*, or "Chronological Record of the Meiji Era Selected from Newspapers" (ed. by Yasumasa Nakayama, Tokyo, 1934), Vol. I, p. 21. The wording of the first article is somewhat vague. It reads: *Hiroku kaigi-o okoshi banki koron ni kessu beshi*. A variant of the translation given above is: "An assembly widely convoked shall be established and all measures shall be decided by deliberation." On the question of interpretation, see Junichiro Otsu, *Dai Nippon Kensei Shi*, or "Constitutional History of Japan" (Tokyo, 1927), Vol. I, pp. 213-215; Takeshi Osatake, *Nippon Kensei Shi*, pp. 36-40; and his *Ishin Zengo-ni okeru Rikken Shiso*, Vol. I, pp. 246-308; Takeshige Kudo, *Meiji Kensei Shi*, or "Constitutional History of the Meiji Era" (Tokyo, 1914-1922), Vol. I, pp. 105-112.

¹² See Viscount Kotei Fukuoka, *Gokajo no Goseimon to Seitaisho no Yurai ni Tsuite*, or "Regarding the History of the Imperial Oath of Five Articles and the Declaration of the Form of Government," in the *Meiji Kensei Keizai Shiron*, or "Papers and Addresses on the Development of Constitutional Government and National Economy in the Meiji Era" (ed. by the Kokka Gakkai, Tokyo, 1919), pp. 1-45. See also Chuta Tsumaki, *Shokiku Kido Ko Den*, or "Biography of Prince Kido" (Tokyo, 1927), Vol. I, pp. 913-918.

¹³ *Meiji Kensei Keizai Shiron*, p. 21. Compare Eijiro Honjo, *Meiji Ishin Keizai Shi Kenkyu*, or "Studies in the Economic History of the Meiji Restoration" (Tokyo, 1930), pp. 359-406; Kiyosaku Nishino, *Hanseiki Zaikai Sokumen Shi*, or "Side Lights on a Half Century of National Finance" (Tokyo, 1932), pp. 116-123.

¹⁴ For the text of the *Seitai Sho*, see the *Horei Zensho*, or "Collection of Laws and Ordinances," 1867-1868, Vol. II, pp. 31-34; *Dai Nippon Gaiko Bunsho*, or "Diplomatic Documents of Japan" (Compiled by the Research Service of the Foreign Office, Tokyo, 1936), Vol. I, pt. i, pp. 551-558. An English translation of the text, as published in the *Japan Herald* (Yokohama), Aug. 29, 1868, p. 1492, is given in W. W. McLaren, *Japanese Government Documents*, pp. 7-15.

of government were concentrated in the *Dajokwan* (cabinet), which, however, was divided into three groups, namely, a *Giseikwan* (legislative office), a *Gyoseikwan* (administrative office), and a *Keihokwan* (judicial office). The *Giseikwan* was to be composed of an upper assembly consisting of *Gijo*, or councillors of the first class (limited to princes of the blood, court nobles, and daimyos) and of *Sanyo*, or councillors (including samurai as well as princes, nobles, and daimyos). The lower house was to be the *Kogisho*, an assembly of representatives of the feudal lords. In 1869, the *Kogisho* actually was convened, only to prove with promptitude its utter inadequacy; while the abolition of feudalism and the relegation of the daimyos to private life in 1871 obliterated the *raison d'être* of this assembly. Nevertheless, the *Seitai Sho* is to be viewed as a milestone in the constitutional history of Japan, for it applied, albeit in crude form, the principle of separation of powers. On the other hand, its importance as fixing for all time the *Kokuze* (guiding principles of the national polity), as claimed by Professor Hozumi and others of the conservative school of jurisprudence, is overstressed, for if Japanese constitutional development had stopped at this point there would have been no provision for popular representation.¹⁵

ITAGAKI AND THE POPULAR CAMPAIGN FOR A CONSTITUTION

Bureaucratic circles continued to favor the adoption of a constitution. In 1873, both Koin Kido and Toshimichi Okubo prepared papers urging the establishment of constitutional monarchy as a means of fostering national unity.¹⁶ Among the Sangi, or imperial councilors, the most advanced advocate of representative institutions was Taisuke Itagaki, a samurai of the Tosa clan who already detected the incipient alliance between the Choshu and Satsuma clans for domination of the government.¹⁷ Itagaki de-

¹⁵ See his *Kempo Seitei no Yurai*, or "Historical Sketch of the Framing of the Constitution," in the *Meiji Bunka Zenshu* (ed. by Yoshino), Vol. IV, pp. 419-428.

¹⁶ Compare Tsumaki, *Shokiku Kido Ko Den*, Vol. II, pp. 1559-1572; Magoya Katsuda, *Okubo Toshimichi Den*, or "Biography of Toshimichi Okubo" (Tokyo, 1910), Vol. III, p. 121; *Okubo Toshimichi Bunsho*, or "Letters and Papers of Toshimichi Okubo" (ed. by the Nippon Shiseki Kanko Kai, Tokyo, 1927-1929), Vol. VIII, pp. 109-111; Taisuke Itagaki, *Jiyuto Shi*, or "History of the Liberal Party" (Tokyo, 1910), Vol. I, pp. 37-45.

¹⁷ Compare Itagaki's *Wagakuni Kensei no Yurai*, or "Development of Constitutional Government in Japan," in *Meiji Kensei Keizai Shiron*, or "Papers and Addresses on the Development of Constitutional Government and National Economy in Japan" (ed. by the Kokka Gakkai, Tokyo, 1919), pp. 176-181.

manded immediate action on the adoption of the constitution, whereas the conservative members of the Dajokwan, as they began to understand the economic and political implications of representative government, rallied around the principle of *Zenshin-shugi* (gradualism in constitutional development). In 1873, the rift between Meiji statesmen was suddenly widened by disagreement over the Korean policy, followed by the resignation of Itagaki and three colleagues, leaving Iwakura, Kido, and Okubo in mastery of the Dajokwan.¹⁸

In retirement, Itagaki initiated his renowned campaign for granting the suffrage to the people in order to save the country from the *Hambatsu* (clan bureaucrats).¹⁹ In this crusade, he elicited the support of such young intellectuals as Shigeru Furusawa and Nobuo Komuro. With their aid, the campaign of propaganda began with a memorial to the Throne through the *Sa-in* in the Dajokwan signed in the first place by Itakagi, Yuri, Soyejima, Goto, Eto, Komuro, Furusawa, and Okamoto, published on January 18, 1874, and urging the Government to set up a legislative assembly elected by the people. The next step was the founding of a political party, the *Aikoku Koto* (Public Society of Patriots), with the aim of pressing the memorial upon the attention of the Dajokwan. Itagaki also founded the *Risshi Sha* (Aspirants' Club), a school for propaganda, in Tosa, which drew over 3,000 youths from all parts of Japan. The wide publicity accorded the memorial by these means led to the appearance of many political organizations throughout Japan, and in 1875, a convention of delegates from these bodies, held at Osaka, gave concrete evidence that the new interpretation of *Kogi Yoron* had a wide popular following.

PARLIAMENTARY EXPERIMENTS

The Sangi were not indifferent spectators of this popular movement, and the defection of Koin Kido from the Government at this time increased their apprehension. Accordingly, under the guidance of Kaoru Inouye, in 1875, there was held the well-known

¹⁸ Of the five resigning Sangi, only Takamori Saigo was of the Satsuma clan; Taneomi Soyejima, and Shimpei Eto were of Hizen, while Itagaki and Shojiro Goto were of Tosa.

¹⁹ See Itagaki's *Wagakuni Kensei no Yurai*, pp. 186-188. See also the essay on the "History of Political Parties in Japan" by Professor Kazutami Ukita and Counts Itagaki and Okuma in Shigenobu Okuma's *Kaikoku Gojunen Shi*, or "History of Fifty Years After the Opening of Japan" (Tokyo, 1907), Vol. I, pp. 134-136.

conference at Osaka ending with an agreement that the Government should prepare a constitution providing for a monarchy with a representative parliament.²⁰ Thereupon Itagaki and Kido reëntered the Government, while Kido, Itagaki, Okubo, and Ito were commissioned to study constitutional reform.²¹ This was followed by the imperial proclamation of April 14, 1875, announcing the design of the Emperor to establish constitutional government, and, as a beginning, the immediate creation of a senatorial body (the *Genro-in*) and a supreme court (the *Daishin-in*).²² Under this arrangement, the *Dajodaijin* (prime minister), the *Sadaijin* (left minister), the *Udaijin* (right minister), and the *Sangi* (councillors), together with the cabinet, still constituted the Dajokwan, or Council of State. The *Genro-in*, although a body of appointed members, was to serve as an embryonic legislature.

In June, 1875, the Government actually convoked an assembly of prefectural governors and admitted two delegates representing the people together with newspaper men as onlookers.²³ The newspapers, however, criticized the arrangement as inadequate, and this criticism led to the drastic Libel Law and Press Law of June 28, 1875, which brought the arrest of newspaper editors and ushered in the age of strict censorship.²⁴ Discouraged by the defection of Kido and Okubo, who were now more engrossed in the artificial development of Japanese industry, commerce, and finance by a policy of economic paternalism than they were in constitutional reform, the indomitable Itagaki again resigned as *Sangi*. Once more, as a private citizen, he championed the cause of democracy.²⁵

²⁰ Tsumaki, *Shokiku Kido Ko Den*, Vol. II, pp. 1797-1809; Soho Tokutomi, *Okubo Koto Sensei*, or "Biography of Okubo" (Tokyo, 1928), pp. 372-378. See also Taisuke Itagaki, *Jiyuto Shi*, or "History of the Liberal Party" (Tokyo, 1910), Vol. I, pp. 182-188. The latter work was not written by Itagaki, but by Tomoi Uda and Saburo Wada, who compiled it under his supervision.

²¹ Regarding the *Seitai Torishirabe I-in* (Commission for the Investigation of the Form of Government), see Tsumaki, *Shokiku Kido Ko Den*, Vol. II, pp. 1818-1820; Itagaki, *Jiyuto Shi*, Vol. I, pp. 190-191.

²² *Horei Zensho*, 1875, p. 8. For an English translation, see W. W. McLaren, *Japanese Government Documents*, pp. 41-42.

²³ For an appraisal of the first session of the *Chihokan Kaigi* (Prefectural Governors Conference), which opened on July 20 and adjourned on July 17, 1875, see Takeshi Osatake, *Nippon Kensei Shi*, pp. 128-135.

²⁴ The *Zamboritsu* (Libel Law) and the *Shimbunshi Jorei* (Press Law) were promulgated in the *Dajokwan Fukoku*, or "Notifications of the Dajokwan," No. 110 and 111, July 28, 1875. Compare Sasuhara, *Meiji Sei Shi*, Vol. I, pp. 269-271.

²⁵ Itagaki's account of his resignation is found in his *Jiyuto Shi*, Vol. I, pp. 131-132.

The Samurai rebellion in 1877 and the assassination of Okubo led to more governmental oppression of the press. As a result, intellectuals were so distrustful of the Government that its decision in 1878 to create elective assemblies in the prefectures and cities was followed, not by applause, but rather by a renewed campaign for a national assembly.²⁶ Itagaki, with Kenkichi Kataoka and Hironaka Kono, labored to win a wider popular following for constitutional reform. Under their guidance, national conventions of the *Aikoku Koto* were held, and at the third one in 1880, at Osaka, representatives from ninety-seven societies with 87,000 members attended. On this occasion, the *Kokkai Kisei Domei Kai* (League for the Creation of a National Assembly) was formed, a petition for the opening of the Diet was adopted, and Kataoka and Kono were delegated to present it to the Dajokwan.²⁷ The bearers of the petition, however, encountered a stubborn Government, the Dajokwan rejecting it on the ground that there were no rules for the reception of memorials, and the *Genro-in*, on the ground that it was not in due form. The society now moved its headquarters to Tokyo and hounded officials with demands for a parliament. To escape this vexation, the Government decreed that all petitions must be forwarded through the prefectural governors.²⁸ Balked at this stage, Itagaki's followers again turned to the provinces with a campaign of popular education and agitation. Even under these rebuffs, the movement for opening the Diet gained ground. Among the new recruits was Prince Saionji, scion of a noble family, who, upon his return from France in 1881, began the publication of a newspaper directed at the despotism of the Satsuma-Choshu clans and preaching the blessings of liberty.²⁹

THE DRAFTING COMMITTEE OF THE GENRO-IN

The resignation of Itagaki from the Sangi in 1876 did not bring an end to the work of drafting a constitution. There is evidence

²⁶ For the Imperial Rescript of July 22, 1878, regulating the *Fukenkai*, or prefectural assemblies, see the *Horei Zensho*, 1878, pp. 12-15. For an English translation, see McLaren, *Japanese Government Documents*, pp. 272-276.

²⁷ Itagaki, *Jiyu Shi*, Vol. I, pp. 331-377.

²⁸ The *Shukai Jorei* (Law Regulating Assemblies) was promulgated in the *Dajokwan Fukoku*, No. 12, April 5, 1880.

²⁹ See Yosaburo Takekoshi, *Toan Ko*, or "Prince Toan" (Tokyo, 1932), pp. 88-90. Prince Saionji soon withdrew as editor, but it is a significant fact that as a young man he openly opposed the Government.

that Emperor Meiji sincerely regretted the delay in the promulgation of a constitution and was determined to secure action.³⁰ On September 4, 1876, the Emperor directed Imperial Prince Taruhito Arisugawa, the president of the *Genro-in*, to create a *Kokken Torishirabe I-in* (committee for drafting the constitution). This commission immediately began its labors and finished its first draft in October. Interrupted by the Satsuma revolt, the final draft was not completed until July, 1880, and was forwarded to the Throne in December of that year.³¹ This remarkable report offered a constitution almost as democratic as the fundamental law that France had adopted in 1875. Borrowing heavily from the British parliamentary system, the draft provided that the Emperor, the *Genro-in* (Senate), and the *Daigishi-in* (House of Representatives) should share the legislative power. It was not this feature alone that aroused the opposition of the conservatives among the *Sangi*. They were offended, among other things, at the neglect which the project had shown the *kokutai* and the use of the Chinese term *Kotei* in place of the Japanese *Tenno* to designate the Emperor.

As the drafting of the project was reaching its final stages, Ito became alarmed and proposed that the *Genro-in* abandon its task.³² It was due to Ito's remonstrances that the Emperor finally requested each *Sangi* to express his view in an *ikensho* (written opinion), a request that brought in reply the memorial of Okuma which created the ministerial crisis of 1881. Yamagata, Kuroda, Yamada, Inouye, Ito, and Oki replied in a conservative vein advising further delay in any announcement regarding the opening of a parliament.³³ Okuma, on the other hand, failed to give his opinion until the Emperor urgently pressed him for an answer.

³⁰ Compare Ikujiro Watanabe, *Meiji Tenno to Rikken Seiji*, or "Emperor Meiji and Constitutional Government" (Tokyo, 1935), pp. 79-81.

³¹ *Ito Hirobumi (Hakubun) Hen: Kempo Shiryo*, or "Materials Relating to the Constitution Preserved by Prince Hirobumi Ito" (Tokyo, 1934), Vol. III, pp. 345-444. The written opinions of nine members of the *Genro-in* regarding the project of 1880 are in the Ito archives. *Ibid.*, Vol. III, pp. 396-442. See also the scholarly article of Sakuzo Yoshino on "Drafts of the Japanese Constitution Prior to Promulgation," in the *Kokka Gakkai Zasshi*, or "Journal of the Association of Political and Social Science" (Oct. 1928), Vol. XLII, pp. 293-304.

³² See his letter of December 21, 1879, to the *Udaijin*, Prince Tomoyoshi Iwakura.

³³ Yamagata was the first of the *Sangi* to reply. See *Yamagata Aritomo Ko Den*, or "Life of Prince Aritomo Yamagata" (ed. by Soho Tokutomi, Tokyo, 1933), Vol. II, pp. 841-848. All of the *ikensho* are reprinted in Otsu, *Dai Nippon Kensei Shi*, Vol. II, pp. 370-410.

The time was auspicious for a *coup d'état*. Under a heavy barrage of newspaper criticism regarding scandals in the sale of government properties in Hokkaido, the Government had steadily lost prestige. Here was the opportunity for Okuma (a Hizen clansman), the senior among the Sangi, to drive the Satsuma-Choshu bureaucrats from office, and, to this end, supporters of Okuma sought an alliance with Itagaki.³⁴ But the latter replied that inasmuch as scandals could not be avoided under an arbitrary government such as then existed, patriots should not stoop to turn one faction of officials out of power in favor of another faction, but rather should bend all their energies toward constitutional reform. It was at this juncture that Okuma joined the constitutionalists and threw consternation in the midst of the Sangi by a memorial to the Emperor proposing: (1) that the date of the opening of the parliament be announced to the people; (2) that the appointment of high officials be made in accordance with the popular will; (3) that there be a distinction between the civil service and political offices; (4) that the constitution be enacted by the Emperor; and (5) that the general elections for the parliament be held at the end of the year 1882 and the parliament be convened at the beginning of 1883.³⁵

Many years later, among the archives of the Ito family, there was found a copy of Okuma's memorial made in Ito's own handwriting.³⁶ There are some who say that Ito purloined the document, for it was taken from the Emperor's portfolio without his permission. At any rate, the Choshu clansman studied the document with care and did not hesitate to arouse his colleagues to the danger lurking in Okuma's radical proposals. Their apprehensions were confirmed when news of the breach in the Dajokwan leaked out and when a popular cry for Okuma's leadership arose. Thereupon, a Satsuma-Choshu intrigue would have summarily ejected Okuma from the council of state had not the Emperor intervened.³⁷ As it was, Okuma was forced to resign. But his manoeuvre had won the day for constitutional reform. Largely upon the insistence

³⁴ Itagaki, *Jiyuto Shi*, Vol. I, pp. 501-502; Kenkichi Ichijima, *Okuma Ko Hachiju-go Nen Shi*, or "History of the Eighty-Five Years of Marquis Okuma" (Tokyo, 1926), Vol. I, p. 846.

³⁵ The text is in the *Meiji Bunka Zenshu* (ed. by Yoshino), Vol. III, pp. 433-438. See also Ichijima, *Okuma Ko Hachiju-go Nen Shi*, Vol. I, pp. 796-808.

³⁶ *Ito Hirobumi Hiroku*, or "Unpublished Papers of Hirobumi Ito" (ed. by Atsushi Hiratsuka, Tokyo, 1929), pp. 208-216.

³⁷ See Watanabe, *Meiji Tenno to Rikken Seiji*, pp. 92-96.

of the Emperor, there issued the famous rescript of October 12, 1881, promising a constitution and the convening of a parliament by the year 1890.³⁸

THE KORYO OF PRINCE IWAKURA

Following the imperial promise of a new constitution, Prince Iwakura, lending himself to the Satsuma-Choshu reaction, took the lead in throwing the proposals of Okuma into the discard and in settling for all time the basis of the new constitution.³⁹ Accordingly, he prepared his *Koryo* (Theses) and *Iken sho* (Opinions). The former read in part as follows:

(1) The constitution must take the form of *Kintei Kempo* (a constitution emanating solely from the Emperor). (2) The principle of *Rikken Zenshin*, or gradual approach toward constitutional government, must prevail. (3) The law governing succession to the Throne, which is to be enacted on the basis of those rules which have been observed since the days of the Imperial Ancestor, is not required to form part of the constitution. (4) The Emperor takes supreme command of the army and navy, declares war, makes peace, concludes treaties with foreign nations, directs coinage, confers honors and grants amnesties. (5) The Emperor in person appoints and dismisses and otherwise deals with all high officials of state. Cabinet ministers may or may not be members of the Diet. The organization of the cabinet shall not be subjected to intervention by the Diet.

(6) Except for those administrative affairs that are of fundamental importance to the state, for which all the ministers shall be jointly responsible, each minister shall only be individually responsible for administrative affairs placed under his own official jurisdiction. (7) With a view to dividing the legislative power, the legislature shall consist of two houses, the *Genro-in* (Senate) and the *Minsen Gi-in* (Popular National Chamber). (8) The *Genro-in* shall be composed of *Tokusen Gi-in* (members appointed by the Emperor) and *Kosen Gi-in* (members elected from among the ranks of the *Kazoku* (peers) and the *Shizoku* (former samurai)). (9) The election law for the *Minsen Gi-in* shall include a property qualification upon the suffrage, while the electors for the *Kazoku* and *Shizoku* groups shall not be subjected to property restrictions.

(10) All legislative bills shall be initiated by the Government only. (11) Whenever an annual budget fails of passage before the end of the current tax-collecting period, for the reason of the impossibility of agreement between the Government and the Diet, or of the termination of the

³⁸ For the text, see the *Shim bun Shusei Meiji Hennen Shi*, or "Chronological Record of the Meiji Era Selected from the Newspapers" (Tokyo, 1935), Vol. IV, p. 471. An English translation, as published in the *Japan Daily Mail*, 1881, p. 1199, is printed in McLaren, *Japanese Government Documents*, pp. 86-87.

³⁹ More exactly, Prince Iwakura, who was then the *Udaijin* (right minister), acted in consultation with Prince Sanetomi Sanjo, who was the *Dajodaijin* (prime minister), and Prince Taruhito Arisugawa, who was the *Sadaijin* (left minister).

session by the resolution of the Diet itself, or of the absence of a quorum in the chambers of the Diet, the Government may execute the provisions of the budget of the preceding year.

(12) The rights of citizens. (On this score, constitutional provisions of other nations should be consulted.)⁴⁰

The *ikensho*, or opinions, that followed these fundamental principles minced no words in asserting the unsuitability of the British parliamentary form for Japan. The British king, said Prince Iwakura, is controlled by his parliament. His Government is at the mercy of the dominant party. The king is thus merely a figurehead, or rather a flag fluttering in the wind. Such an arrangement is the negation of the Japanese *kokutai*. To follow the British pattern would break with the Japanese tradition of centuries, whereas the Prussian system whereby the king rather than the parliament actually selects the cabinet comports with Japanese requirements.

The *Zenshin-shugi-sha*, or "gradualists," were in the saddle, and the Government tacitly accepted the *koryo* of Prince Iwakura as the basis of the drafting of the constitution. This victory, inevitable after the retirement of Okuma, gave a conservative, or even reactionary, momentum to the drafting of the constitution.⁴¹ Obviously, proposals for more popular forms of government hereafter would have the disadvantage of contending against the accomplished fact. Time was not pressing, and inasmuch as the impetus for the movement in favor of obtaining *Kogi Yuron* through a parliament had come from Western lands, it was logical to make another official scrutiny of European institutions before the fundamental law was engraved in almost indelible words. Prince Iwakura, feeling the weight of passing years, turned over this task to a younger man.

⁴⁰ For the text, see Otsu, *Dai Nippon Kensei Shi*, Vol. II, pp. 411-419, 788-796. These documents bear the date of July 6, 1881. See also *Iwakura Ko Jikki*, or "Authentic Biography of Prince Iwakura" (ed. by Yoshimitsu Tsunoda, Tokyo, 1927), Vol. III, pp. 44-51; and *Iwakura Tomoyoshi Kankei Bunsho*, or "Documents Relating to Tomoyoshi Iwakura," (edited by Takematsu Otsuka and published by the Nippon Shiseki Kyokai or Commission for the Publication of the Historical Documents of Japan" Tokyo, 1927), Vol. III, pp. 142-147.

⁴¹ Attention should be called to the great weight which the leader of the conservative school of jurisprudence, Professor Yatsuka Hozumi, always gave to the *koryo* of Prince Iwakura as the arbiter of all disputes regarding the question of ministerial responsibility under the constitution of 1889. See his *Kempo Seitei no Yurai*, or "Historical Sketch of the Framing of the Constitution," in the *Meiji Bunka Zenshu* (ed. by Yoshino), Vol. IV, pp. 419-428.

THE DRAFTING OF THE CONSTITUTION UNDER
THE SUPERVISION OF COUNT ITO

In March, 1882, Hirobumi Ito received the imperial command to lead a mission for the study of constitutional government in Europe.⁴² In the same month, Ito assembled a group of brilliant assistants and was on his way to Europe. Most of this retinue were young men, familiar with European languages.⁴³ Arriving in Europe, Ito sent Prince Saionji and others conversant with the French language to Paris to study the constitution of the Third Republic. Ito himself, with a larger group, repaired to Germany and later to Austria. At Berlin, besides having interviews with Bismarck and other German statesmen, the delegation engaged the celebrated jurist Rudolf von Gneist for a course of lectures upon comparative constitutional law.⁴⁴ Although resenting the supercilious attitude of the German professor, the Japanese officials heard him to the end of his course. Then moving to Vienna, the Japanese delegation listened to a course of lectures by Professor Lorenz von Stein, who seems to have imparted more helpful information than his Berlin colleague.⁴⁵ At the end of each lecture, Ito himself put questions to the learned jurist, while Miyoji Ito, Naotane Yamazaki, and others took full notes. After their study in Vienna, the delegation assembled in Paris and later visited England. In London, the delegates attended Herbert Spencer's lectures on representative government given at the Athenaeum Club and wrestled with Alpheus Todd's ponderous tome on *Representative Government*.

In March, 1884, after Count Ito's return to Japan, the drafting of the constitution was undertaken. Ito distributed the task of actually preparing the texts among his secretaries as follows: (1)

⁴² For the imperial rescript of March 3, 1882, commissioning Ito to travel abroad for the purpose of investigating European constitutions, see *Ito Ko Zenshu*, or "Complete Papers of Prince Ito" (ed. by Midori Komatsu, Tokyo, 1928), Vol. III, pp. 84-85.

⁴³ The group included Prince Kimmochi Saionji, Miyoji Ito, Tosuke Hirata, Tomosada Iwakura, Jun Kawashima, Taizo Miyoshi, Naotane Yamazaki, Katamitsu Hirohashi, and Masaharu Yoshida.

⁴⁴ Notes on the lectures by Professor Gneist under the title of "Seitetsu Yume Monogatari," or "Dream Talks of a Western Pundit," are published in the *Meiji Bunka Zenshu* (ed. by Yoshino), Vol. IV, pp. 429-496.

⁴⁵ A résumé of Professor von Stein's lectures, under the title of *Stein Shi Kogi Hikki*, or "Notes on Professor Stein's Discourses," was published by the Department of the Imperial Household in Tokyo in 1889. The text is reprinted in the *Meiji Bunka Zenshu* (ed. by Yoshino), Vol. IV, pp. 498-613.

Ki Inouye had in charge the text of the constitution itself and the Imperial Household Law; (2) Miyoji Ito, the Law of the Houses; and (3) Kentaro Kaneko, the Law of Election of Members of the House of Representatives. As already mentioned, these assistants were of a younger generation than the statesmen of the Restoration. But if their youth deflected any sympathy with the *Koryo* of Prince Iwakura, Count Ito corrected any tendency toward British parliamentarianism. As the drafting progressed, the advice of foreign scholars and statesmen was sought from time to time, although the only foreign jurist residing in Japan frequently consulted was Dr. Carl Friedrich Hermann Roessler, of the faculty of law in the Imperial University of Tokyo, whose advice consistently inclined toward the Prussian rather than the British system.⁴⁶

The drafting proceeded behind closed doors; popular curiosity was aroused and newspapers made efforts to ascertain the situation. In the autumn of 1887, a copy of an alleged draft was published and aroused wide comment.⁴⁷ Efforts at secrecy were redoubled, and indeed the final stages of the drafting occurred on the small island of Natsujima near Yokosuka. In 1888, the work of the experts was complete and the draft of the new constitution was laid before the Emperor.

REVISION OF THE DRAFT BY THE PRIVY COUNCIL

The procedure for the final deliberation and promulgation had already been determined. From the beginning, the principle of *Kintei Kempo* had prevailed; there was to be no constituent body for deliberation and ratification. Accordingly, Count Ito decided to establish one of the organs of the new constitutional system in advance of the promulgation of the constitution, for the purpose of definitive consideration of the text of the fundamental law. To this end, the Imperial Ordinance of April 28, 1888, created the privy council.⁴⁸

⁴⁶ His advice on constitutional questions is found in *Ito Hirobumi Hen: Kempo Shiryo*, Vol. III, pp. 99-157.

⁴⁷ Compare Kametaro Hayashita, *Seikai Sokumenshi*, or "Sidelights on Political Circles" (Tokyo, 1925), pp. 380-384.

⁴⁸ The *Sumitsuin Kansei oyobi Jimu Kitei*, or "Imperial Ordinance regarding the Organization and Procedure of the Privy Council," commonly cited as Imperial Ordinance No. 22 of 1888, is found in the *Nippon Ruiten*, or "Code of Laws" (ed. by S. Ichioke, Tokyo, 1889), Vol. I, pp. 512-516. An English translation, as published in Captain Frank Brinkley's *Japan Weekly Mail*, May 12, 1888, pp. 444-445, is reprinted in McLaren, *Japanese Government Documents*, pp. 127-132.

From May 25, to December 17, 1888, the privy council, in forty-one "constitutional sessions," fully debated the text of the constitution. There were also three special meetings, the last one being held early in February, 1889. All of the sessions were in the presence of Emperor Meiji save one, which was on the occasion of the death of his fourth son. Of the twenty-seven men (seventeen councillors and ten ministers) who, besides the Emperor, participated in these deliberations, the majority were conservatives if not reactionaries.⁴⁹ Only one of the outstanding leaders of the movement for constitutional reform, Count Okuma, was entitled to attend. But, as minister of foreign affairs, he was busily engaged in treaty revision and seldom came to the "constitutional sessions." Possibly his absence was due to his dislike of a dispute with Ito, whose mastery of constitutional questions was now superior. At least when Kaneko, years afterwards, asked Okuma to explain his abstention, the sage of Waseda replied that he was content to refrain from attendance upon the promise of Ito that the constitution would give the House of Representatives priority in the discussion of the budget and would give the Diet the *Joso-ken* (right to memorialize the Throne) and the right to initiate legislation.⁵⁰ Even with the absence of Okuma, the privy council was not so overwhelmingly conservative as is generally believed. There was Count Munenori Terajima, who stood very close to Count Okuma. There was Eifu Motoda, of the Higo clan, a scholar of Chinese classics and quaintly democratic. There was Viscount Koyata Torio, another scholar and a follower of the "golden mean," who demanded that the Diet should have the right of impeachment because this power was to be found in Chinese legislatures.

⁴⁹ The Councillors on the Privy Council included: Count Hirobumi Ito, Count Munenori Terajima, Viscount Kiyonari Yoshida, Viscount Tsunetami Sano, Count Sumiyoshi Kawamura, Toshikama Kono, Viscount Kotei Fukuoka, Count Takayuki Sasaki, Count Awa Ketsu, Count Takato Oki, Count Michitoshi Higashikuze, Count Koyata Torio, Viscount Yajiro Shinagawa, Eifu Motoda, Count Taneomi Soyejima, Viscount Yasushi Nomura, Count Tomozane Yoshii. The members of the cabinet were: Count Kiyotaka Kuroda (prime minister), Count Shigenobu Okuma (foreign affairs), Count Tsugumichi Saigo (navy), Count Kaoru Inouye (agriculture and commerce), Count Akiyoshi Yamada (justice), Count Masayoshi Matsugata (finance and home affairs), Count Iwao Oyama (war), Viscount Arinori Mori (education), and Viscount Takeaki Enomoto (communications).

⁵⁰ See statement that Count Okuma made to Kentaro Kaneko. Kaneko, "Historical Sketch of the Framing of the Constitution," in the *Meiji Kensei Eizai Shiron* (ed. by the Kokka Gakkai, 1919), pp. 83-87.

A study of the deliberations of the privy council is hampered by the fact that all of its sessions were secret. And furthermore, no authentic copy of the draft of the constitution laid before the Emperor by Count Ito has been published.⁵¹ There is evidence, however, to the effect that Ito's draft of the constitution was amended in many respects, and that the modifications were in the direction of extending popular control rather than restricting it.⁵² As to the safeguarding of civic rights, Ito's project followed European practice, and the second chapter of the constitution was devoted to the rights and duties of *shimmin* (subjects or citizens). It is significant that Ito, who with Matsugata and Kaoru Inouye was even then molding the new *laissez faire* policy for Japan, took particular care to protect property rights, and was responsible for the provision in Article XXVII, following the Prussian model, whereby confiscation of private property can be effected only by law whereas citizens may be deprived of other rights by imperial ordinance. This chapter of Ito's project was not altered. But the privy council greatly modified other parts of the project. There is evidence that Ito's draft did not give the Diet the authority to initiate bills nor the right to memorialize the Emperor.⁵³ It was Count Terajima, with the support of the Emperor, who took the lead in the amendment of the draft in these respects.

The text of the constitution and the accompanying laws were finally approved by the privy council and recommended to the Emperor. On February 11, 1889, on the coronation anniversary of *Jimmu Tenno*, the constitution was promulgated with the sign manual of the Emperor and the countersignature of the ministers.⁵⁴

ADMINISTRATIVE REFORMS ON THE EVE OF PARLIAMENTARY GOVERNMENT

Count Ito and his colleagues in the Dajokwan had no intention of instituting the parliamentary system before the date set in the

⁵¹ Not even the *Ito Hirobumi Hen: Kempo Shiryo*, edited by Atsushi Hiratsuka and Count Kentaro Kaneko, contains the text of this project.

⁵² Regarding the evidence on this subject, see Otsu, *Dai Nippon Kensei Shi*, Vol. III, pp. 82-84; Watanabe, *Meiji Tenno to Rikken Seiji*, pp. 69, 116-124, 132; Osatake, *Nippon Kensei Shi*, pp. 364-373.

⁵³ Compare Itagaki's "Development of Constitutional Government in Japan," in *Meiji Kensei Keizai Shiron*, p. 254.

⁵⁴ *Kampo*, or "Imperial Gazette," Feb. 11, 1889, pp. 224-226; *Ito Hirobumi Hen: Kempo Shiryo*, Vol. I, pp. 1-38.

rescript of 1881. But the modernization of the government, especially of the archaic administration, could not wait upon the proclamation of the constitution. Thus, after 1881, nearly every change of governmental form was in anticipation of the new régime. In July, 1884, the Imperial Household Department enacted the Peerage Law as preliminary to the establishment of an upper chamber under the constitution.⁵⁵ It was at this time that most of the prominent samurai who had achieved the restoration and the abolition of feudalism, and who still remained in office, were ennobled. Next came the problem of the new cabinet. The reform of the Dajokwan was a delicate task, for it meant nothing less than the separation of the imperial court (*kyūchu*) from the administration (*fuchu*). But under the guiding hand of Ito, and with the full approval of the Emperor, the problem was studied for two years. Finally, in December, 1885, Sanetomi Sanjo, the *Dajodaijin* (prime minister), was persuaded to retire and a *Naikaku*, or cabinet, on the model of European ministries, was created by imperial ordinance.⁵⁶ Ito, newly created a count, became prime minister (*naikaku sori-daijin*) and presided over a cabinet with nine ministers of state (*kokumu daijin*), each at the head of a department. Three years later, for the double purpose of serving as an exalted senate for solemn deliberation on the project of the constitution and of establishing for all time a special organ for the interpretation of the constitution, the privy council was established.⁵⁷

⁵⁵ For the *Kazoku Rei* (Ordinance Regarding the Peerage), see the *Kuncisho Tasshi*, or the Notification of the Imperial Household Department, July 7, 1884; and the *Genko Horei Shuran*, or "Compilation of Laws and Ordinances in Force" (Tokyo, 1907), Vol. I, bk. vii, pp. 345-346. For an English translation, as published in the *Japan Weekly Mail*, July 12, 1884, p. 32, see McLaren, *Japanese Government Documents*, pp. 89-90.

⁵⁶ The memorial of Prince Sanjo and the Imperial Proclamation No. 69, December 22, 1885, creating the Naikaku in place of the Dajokwan, or council of state, is found in the *Horei Zensho*, or "Collection of Laws and Ordinances" (Tokyo, 1890), 1885, pp. 1-3, 1044-1046. For English translations of these documents, as published in the *Japan Weekly Mail*, Dec. 26, 1885, pp. 618-619, see McLaren, *Japanese Government Documents*, pp. 90-97. For the *Naikaku Kansei*, or Imperial Ordinance Regarding the Organization of the Cabinet, Nos. 1 and 2, February 26, 1886, see the *Horei Zensho*, 1886, pp. 19-27. Compare Kentaro Kaneko, "Reminiscences of the Initiation of the Cabinet System," in *Chuo Koron* (Tokyo), Feb. 1936, Vol. LI, no. 2, 115-122; Sasuhara, *Meiji Sei Shi*, Vol. II, pp. 126-129.

⁵⁷ The *Sumitsuin Kansei oyobi Jimu Kisei*, or Imperial Ordinance regarding the Organization and Procedure of the Privy Council, April 22, 1888.

THE OPPOSITION ON THE EVE OF PARLIAMENTARY
GOVERNMENT

The resignation of Okuma in 1881 added to the foes of the procrastinating Government a second great leader of the Opposition (*Zaiyato Shuryo*)—a term borrowed from British politics and frequently applied by Japanese intellectuals to the ex-councillors who in private life consistently criticized the Government. Already the Opposition was organized and could boast of a body of followers. The *Jiyuto*, the party founded by Itagaki in 1880, possessed both organization and a program.⁶⁸ Other parties took form, and Okuma himself accepted the presidency of one of them, namely, the *Rikken Kaishinto*, or Constitutional Progressive Reform party.⁶⁹ In the following years, these parties, sometimes in harmony and frequently without harmony, criticized the policies of the Government on the one hand and demanded a liberal constitution on the other. It was at this time that the devotion of Itagaki to constitutional reform led to the attempt upon his life at Gifu; when severely wounded, he pronounced the well known words: "Itagaki may perish, but not liberty." Hundreds of other intellectuals were equally devoted to the cause of constitutionalism and vigorously carried on the ideological campaign in the press and on the platform. The Government was irrevocably committed to the promulgation of a constitution before 1890, and it appeared unlikely that this pledge would be dishonored. Nevertheless, the Meiji statesmen, whose courage and perspicuity had achieved the restoration of 1867, had become more conservative as Japan's economic policy moved toward the *laissez faire* era, and, as we have already shown, within the Government there was strong pressure toward limiting the representative character of the new constitution. Thus, the agitation of political parties, led by such personalities as Itagaki and Okuma, served to remind the Government of the increasing demand of the intellectuals for the realization of parliamentary *Kogi Yoron*.

Suspicious of political agitation, the Dajokwan again resorted to oppression and applied the laws restricting public meetings and even prohibited both local and branch organizations of parties as

⁶⁸ See Itagaki, *Jiyuto Shi*, Vol. I, pp. 221-226.

⁶⁹ *Okuma Ko Hachiju-go Nen Shi* (ed. by Ichijima), Vol. II, pp. 1-4.

well as communication between them. In 1884, the *Jiyuto* was constrained to dissolve as an organized party, although Itagaki and other leaders continued their criticism individually. In the following year, the *Rikken Teiseito*, a party fostered by the Government, also dissolved.⁶⁰ At the same time, Okuma resigned as leader of the Kaishinto, while this party gave up its register of names of party members. Two years of lessened party activities were followed in 1887 by the rise of the *Daido Danketsu*, a political union founded by Shojiro Goto, who attempted to collect a large assortment of political faiths and to attack the Government on both domestic and foreign policy. Although Goto, like Itagaki and Okuma, was of the group of samurai who played conspicuous rôles in the achievement of the restoration, his union received no quarter from the Government. The inability of the cabinet to wrest a treaty from the Western powers abolishing extraterritoriality aroused public indignation, and Itagaki again resorted to his device of assembling agitators in Tokyo to impress a demand for reduction of the land tax, revision of the treaties, and freedom of speech. The cabinet replied by using the Peace Preservation Ordinances to expel 570 prominent leaders from the capital.⁶¹ In 1888, however, it bowed to public opinion to the extent of inviting Count Okuma to enter the cabinet as minister of foreign affairs with the arduous task of revising the treaties. After the promulgation of the constitution on February 11, 1889, and on the eve of the inauguration of the new régime, the Government renewed its efforts to mitigate friction between itself and the people. Count Goto was invited into the cabinet. His acceptance left Itagaki as the only outstanding ex-councillor as the period of constitution-making came to a close.

The Kuroda cabinet, however, did not live to meet the first session of the Diet. In December, 1889, a fanatic, enraged at Count Okuma's inability to win complete extinguishment of extraterritoriality, threw a bomb which destroyed the minister's right leg. The Cabinet then resigned and the new ministry, headed by Prince Yamagata, included Goto but not Okuma. By this time, the period of drafting the constitution had ended and the initial task of the

⁶⁰ This party, the Constitutional Imperial party, had been founded by Gen-ichiro Fukuchi, Torajiro Mizuno, Sakura Maruyama, and other conservatives.

⁶¹ The provisions of the *Hoan Jorei*, or Peace Preservation Law, of December 25, 1887 (Imperial Ordinance No. 67), were particularly severe. Compare Itagaki, *Jiyuto Shi*, Vol. I, p. 543.

Opposition was completed. During the latter half of this period, the Opposition, in spite of the absence of a legislature within which it could direct its criticism against the Government, played an important rôle in the formulation of the constitution.

In conclusion, it may be said that the Japanese constitution of 1889 reflects the spirit of the remarkable period comprising the first twenty-two years of the Meiji era. The economic background of this period falls into three parts, each of which had its influence upon the constitutional scene. The first period, 1867 to 1878, dominated by Okubo and Kido, was the age of paternalism, when the Government by a process of state socialism sought to stimulate a rapid development of industry, commerce, and finance. Then followed the transition period, from 1878 to 1884, when the Government, relaxing its domination of economic enterprise, sought to return large enterprises to private hands. The drafting of the constitution was completed in the third period, when the policy of *laissez faire* guided the Government, and at the same time left its imprint on the constitution. Finally, it is erroneous to consider this document, as have many Western and even Japanese writers, as largely an imitation of European, and particularly of Prussian, patterns. At the same time, scholars of the conservative school of jurisprudence go too far in belittling the foreign elements in the constitution. In reality, the constitution is a compromise—a compromise between the varying participants in constitutional development, between antagonistic ideologies, and between Japanese tradition on one side and Western experience on the other.

CONSTITUTIONAL DEVELOPMENTS IN SAORSTÁT ÉIREANN AND THE CONSTITUTION OF ÉIRE: II, INTERNAL AFFAIRS*

ARTHUR W. BROMAGE
University of Michigan

The system of government set up under the Irish constitution of 1922 was of the parliamentary type. Provision was made for an Executive Council, some members of which were responsible to Dáil Éireann. The actual working executive was the president of the Executive Council. The old constitution also contemplated a group of expert ministers who should be heads of departments, but who should not share in the collective responsibility of the Executive Council to the Dáil. The appointment of such a group of "extern" ministers was not made mandatory.³⁵ In the first Dáil, three extern ministers were appointed, and in the second Dáil a fourth was added. This constitutional arrangement, the inspiration for which was derived from the Swiss executive, did not last long. The extern ministers were, as a matter of fact, active politicians; they were not appointed on the basis of merit in heading the specific departments;³⁶ in 1927, an amendment was adopted which practically abolished extern ministries;³⁷ and the Free State has since proceeded on the general plan of a cabinet collectively responsible to the Dáil.

The nominal executive created by the constitution of 1922 was the governor-general. Originally, the governor-general, representing the Crown, was given authority to reserve bills in accordance with "the law, practice, and constitutional usage governing the like withholding of assent or reservation in the Dominion of Canada." This power of the governor-general to reserve bills was formally abolished by constitutional amendment in 1933.³⁸ Although under the Cosgrave administration the governor-general played no significant part in the governmental machinery, under de Valera every effort was made to minimize the office. Mr. Timothy Healy served

* Part I of this article, dealing with "External Affairs," appeared in the October issue. MAN. ED.

³⁵ *Constitution of the Irish Free State (Saorstát Éireann) Act 1922*, Article LV.

³⁶ Nicholas Mansergh, *The Irish Free State; Its Government and Politics* (1934), p. 169.

³⁷ Constitution (Amendment No. 5) Act, 1927.

³⁸ Constitution (Amendment No. 21) Act, 1933.

as governor-general from 1922 to 1929, and Mr. James McNeill served until 1932. Until the latter date, the official residence of the governor-general, the Vice-regal Lodge in Phoenix Park, was a social focus. In November, 1932, the King appointed Mr. Donald Buckley governor-general on the advice of the de Valera government. It was then stipulated that the governor-general should not appear at any public function, and a residence was provided in a Dublin suburb.³⁹ Thus was the office wrapped in obscurity. The governor-general retained formal functions in signing bills and in summoning and dissolving the Dáil. However, the majority in the Dáil fixed the date of meeting and of adjournment. The president of the Executive Council, having a majority in the Dáil, had the power to advise a dissolution. The governor-general had no authority to dismiss ministers; he was essentially the servant of the Government. When de Valera, in 1936, called for the removal of the office from the constitution, this was accomplished by constitutional amendment, and the governor-general obediently signed the bill providing for the abolition of his office.⁴⁰

The original framework of the Saorstát government provided for a bicameral legislature. The upper house was the Seanad Éireann. Three methods were tried in fixing its composition between 1922 and 1936, when it was abolished by constitutional amendment.⁴¹ The Saorstát does not have a federal system, the component units of which must be represented in an upper house; it does not have a titled aristocracy. It did not have any ready-made functional organization of society which could serve as a scheme of representation. Therefore, the question of selecting the Seanad Éireann has always been perplexing. Originally, the senate was given twenty-one days in which to suggest recommendations as to money bills.⁴² It could delay bills, other than money bills, for 270

³⁹ *Irish Review and Annual*, 1936 (supplement to *The Irish Times*), p. 5.

⁴⁰ Constitution (Amendment No. 27) Act, 1936.

⁴¹ In the first Seanad, half the members were nominated by the president of the Executive Council, and the other half elected by the lower house. The second plan used was that of the election of the senators by ballot throughout the Saorstát under a system of proportional representation with a single transferable vote. (Article LXXXII provided for the composition of the first senate; Articles XXXII and XXXIII provided for the second method.) Then, in 1928, a scheme of election by the two houses was introduced by constitutional amendment. [Constitution (Amendment No. 6) Act, 1928.]

⁴² *Constitution of the Irish Free State (Saorstát Éireann) Act, 1922*, Article XXXVIII.

days and, under circumstances specified in the constitution, a three-fifths majority of the members could demand a referendum.⁴³ In 1928, the power of the Seanad to refer bills to a referendum was abolished.⁴⁴ Subsequently, the period during which the Seanad could delay bills other than money bills was extended to twenty months.⁴⁵

The death knell of the Seanad was rung after de Valera came into power. The upper house was no doubt performing a useful function in improving and delaying legislation, but it was over-weighted with Cosgrave influence. The impetuous Fianna Fáil majority in the Dáil accomplished the abolition of the Seanad by a constitutional amendment in 1936.⁴⁶ The Free State then entered upon an experiment with unicameralism. Since the old constitution permitted amendment by statute, the Dáil was not only a one-house legislature but also a one-house constituent assembly. This permitted the Fianna Fáil majority to jam through a basic constitutional amendment in very short order at the time of the abdication of Edward VIII.⁴⁷ The haste with which this could be done caused Cosgrave to remark in the Dáil that it was a mockery of democracy. In the constitution of 1937, provision is made for a new Seanad Éireann.

The 1922 constitution of Saorstát Éireann was a pliable one. Its flexibility was made possible by the constitutional proviso permitting the amendment of the constitution by simple legislative act for a period of eight years, or until 1930. In 1929, this temporary system of amendment was by constitutional amendment extended for another period of eight years.⁴⁸ Even the Dáil itself has not been immune from this process of tinkering; for example, the original constitutional arrangement allotting representation in the Dáil to the universities was abandoned in 1936.⁴⁹ ✓

The trend in the Irish Free State between 1922 and 1937 was in favor of the power of the president of the Executive Council. Both

⁴³ *Ibid.*, Articles XXXVIII and XLVII.

⁴⁴ Constitution (Amendment No. 10) Act, 1928.

⁴⁵ Constitution (Amendment No. 13) Act, 1929.

⁴⁶ Constitution (Amendment No. 24) Act, 1936.

⁴⁷ See *supra*, in the October issue of this REVIEW, pp. 851-852.

⁴⁸ Constitution (Amendment No. 16) Act, 1929.

⁴⁹ Constitution (Amendment No. 23) Act, 1936. At the time of the general election of 1937, the size of the house had been reduced from 153 to 138 members.

the senate and the governor-general were abolished in 1936. Meanwhile, the growth of the party system had been rapid and party discipline had reached a high level. Members of Fianna Fáil have been accused of being gramophone voters, but it stands to reason that they cannot be expected to vote the opposition into power when party feeling has run so high. Since 1922, the Free State has seen the dominance of two major party leaders. With the support of the Cumann na nGaedheal party and other groups, Cosgrave served as president of the Executive Council from 1922 to 1932. In the latter year, de Valera brought Fianna Fáil into power with the support of Labour, and from 1933 to 1937, Fianna Fáil had an independent majority. In 1933, the old Cumann na nGaedheal party, the Centre party, and some other minor groups combined to form the Fine Gael or United Ireland party, making Cosgrave the leader of a substantial minority party in the Dáil.

In the general election of July, 1937, Fianna Fáil obtained 69 seats in a house of 138 members. One of these Fianna Fáil deputies was the Ceann Comhairle, Francis Fahy, who as chairman of the Dáil was entitled to automatic reëlection. Since he was entitled to vote only in case of a tie, this made Fianna Fáil dependent upon the support of either Independents or Labour for a working majority. The balance of the seats in the Dáil went to the parties as follows: Fine Gael, 48; Labour, 13; and Independents, 8.⁵⁰

In 1933, there were 153 seats in the Dáil. Of these, Fianna Fáil obtained 77 and Labour 8. The balance went to the Cumann na nGaedheal, the Centre parties (later amalgamated as Fine Gael), and a few Independents. Thus the significant feature of the 1937 general election was the growth in the Labour vote. The number of Labour deputies increased from 8 in a house of 153 members to 13 in a house of 138; and this occurred in the face of the fine record of Fianna Fáil in social amelioration and in labor legislation. When the Dáil convened on July 21, Cosgrave opposed the reëlection of de Valera as president of the Executive Council on the ground that Fianna Fáil had not obtained a majority of the first preference votes cast at the general election.⁵¹ However, Labour and some Independents left no doubt as to their desire that the Fianna Fáil

⁵⁰ *The Irish Press*, July 7, 1937.

⁵¹ The totals were: Fianna Fáil, 599,638; Fine Gael, 461,176; Labour, 132,686; Independents 131,494; total for all parties, 1,324,994. *Ibid.*

government should continue by voting with the latter for de Valera as president of the Executive Council.⁵²

The development of two major parties and of party discipline has made for the stability of ministries. Bitterness between the major party groups, deriving from the Civil War, has led to strict party discipline. Irish party passions spring from roots that are strong and deep. They trace back to the Civil War, to feelings that die out only with the generation in which they were engendered. The parliamentary overturn in 1932, when de Valera first became president of the Executive Council, was no mere shifting of forces in the Dáil. It was more of a bloodless revolution than an ordinary parliamentary change-over. This intense party strife tended to make the constitution of 1922 a football of politics. An obvious example of this relates to the articles of that document pertaining to the initiative and referendum.⁵³ While Cosgrave was still in power, de Valera and Fianna Fáil fell back upon the initiative as a means of striking the oath of allegiance from the constitution. They obtained more than the necessary signatures and presented a petition to the Dáil. Soon after the petition was presented, but before it could be acted upon, the Cosgrave government brought in a bill to delete from the constitution the articles which authorized the initiative and referendum. This bill was passed and the constitution was so amended.⁵⁴ In this manner, the constitution of 1922 was repeatedly punctured by the moves of party strategy. The abolition of the senate in 1936 by the Fianna Fáil party is another illustration. Technically, the government of the Irish Free State from 1922 to 1937 was marked by legislative supremacy. Actually, rigid party discipline fostered the supremacy of the Executive Council.

The constitution of 1937 (Bunreacht na hEireann) provides for a national parliament to be known as the Oireachtas. The Oireachtas consists of the President of Ireland (Uachtarán na hEireann), of a lower house (Dáil Eireann), and of an upper house (Seanad

⁵² *New York Times*, July 22, 1937. The vote was 82 for and 52 against de Valera.

⁵³ Articles XLVII and XLVIII.

⁵⁴ Constitution (Amendment No. 10) Act, 1928. Majorities in both the house and the senate voted that this constitutional amendment bill was necessary for the immediate preservation of the public peace and safety. In this way any referendum on the constitutional amendment bill was forestalled and the initiative and referendum articles were stricken from the constitution (see Nicholas Mansergh, *The Irish Free State*, 1934, pp. 143-144).

Éireann), and the sole and exclusive authority to make laws for Ireland is vested in it. The parliament may not enact any law which is in any respect repugnant to the constitution. The authority to raise and maintain military or armed forces is vested exclusively in the parliament. War may not be declared, and Ireland may not participate in any war, save with the assent of Dáil Éireann. Each house is given authority to elect from its members a chairman and a deputy chairman, and to prescribe their respective powers and duties. Each house can make its own rules and standing orders.⁵⁵

Every citizen, without distinction of sex, who has reached the age of twenty-one years is eligible for membership in Dáil Éireann, unless he or she is under a disability or incapacity resulting from the constitution or law. The right to vote for members of Dáil Éireann is extended to every citizen twenty-one years of age who is not disqualified by law and complies with the provisions of law relating to the election of members of the Dáil. Voting must be by secret ballot, and each elector has one vote. The constituencies and the number of members of Dáil Éireann are to be determined by law, but the ratio of representation may not be fixed at less than one member for each 30,000 population nor more than one member for each 20,000. The method of election must be the system of proportional representation with a single transferable vote. A Dáil may not continue longer than seven years after its first session, although a shorter period may be prescribed by law.⁵⁶

The constitution of 1937 provides for a Seanad Éireann of sixty members. Eleven of these are to be nominated by the Taoiseach (prime minister) with their prior consent. Three are to be elected by the National University, and three by the University of Dublin. Forty-three are to be chosen in the manner provided by law from panels of candidates representing certain group interests. Before each general election of senators, nominations are to be made as determined by law to panels representing: (1) National Language, Literature, Art, and Education; (2) Agriculture and allied interests and Fisheries; (3) Labour, whether organized or unorganized; (4)

⁵⁵ Questions in each house, except as otherwise provided, are determined by a majority of the votes of the members present and voting, other than the chairman or presiding officer. The chairman or presiding officer has and shall exercise a casting vote in cases of ties. A quorum is determined by the standing orders of each house. No person may be at the same time a member of both houses. (*Bunreacht na hÉireann*, 1937, Article XV.)

⁵⁶ Article XVI.

Industry and Commerce (including banking, finance, accountancy, engineering, and architecture); (5) Public Administration and Social Services.⁵⁷ The constitution also permits a more direct type of functional representation to be fixed by law. The Oireachtas may by law authorize the direct election of a specified number of members of Seanad Éireann by any functional or vocational group or association or council.⁵⁸ The question of the composition and method of electing an upper house has been a perennial one in Saorstát Éireann. It is not surprising, therefore, that the new constitution contains only an outline sketch of the Seanad for Éire. Until the details are filled in by legislation, little can be said other than that the new constitution paves the way for an upper house which will reflect functional interests.

(The constitution of 1937 provides for a cabinet responsible to Dáil Éireann. The cabinet is made up of not less than seven nor more than fifteen members, and is designated as "the Government.") Subject to the provisions of the constitution, the executive power of Éire is exercised by or on the authority of the Government. War may not be declared, and Éire may not participate in any war, save with the consent of the Dáil. In case of actual invasion, the Government may take whatever steps it considers necessary to protect the state. If Dáil Éireann is not in session, it shall be summoned to meet at the earliest practicable date.⁵⁹ The responsibility of the Government to Dáil Éireann is a collective one. "The Government shall meet and act as a collective authority, and shall be collectively responsible for the Departments of State ad-

⁵⁷ Article XVIII. After the abolition of the Seanad in 1936, de Valera appointed a commission to consider the proper composition and functions of an upper house. The work of the commission resulted in divers opinions. De Valera was most impressed with a minority report which espoused the principle of functional representation. The late Chief Justice Kennedy was chairman of the commission. In general, the members of the commission were in agreement that the upper house should have only the power to delay bills and to suggest their reference to a referendum. In the draft constitution, de Valera provided for the election of the senators from the panels by a special electorate composed of every person who was a candidate for the Dáil at the last preceding election and who received more than five hundred first preference votes. As the debates on the constitution revealed disagreement over the method of electing senators, de Valera moved a government amendment to leave the question of the nature of the electorate to the ordinary law. However, proportional representation and a secret postal ballot were required. *The Irish Press*, June 10, 1937.

⁵⁸ Article XXIX.

⁵⁹ Article XXVIII.

ministered by the members of the Government."⁶⁰ Every member of the Government has the right to attend and to be heard in each house of the Oireachtas.

The head of the Government, or prime minister, is known as the Taoiseach. He nominates a member to serve as Tánaiste. If the Taoiseach dies or becomes permanently incapacitated, the Tánaiste is authorized to act until a new Taoiseach is appointed. The Taoiseach, the Tánaiste, and the cabinet minister in charge of the Department of Finance must be members of the Dáil. While the other ministers must be members of either the Dáil or the Seanad, not more than two may be members of the latter. The Taoiseach may resign at any time by placing his resignation in the hands of the President. He may at any time, for reasons which seem sufficient to him, request a member of the Government to resign. If the member does not resign, the President may, on the advice of the Taoiseach, terminate the member's appointment. The Taoiseach must resign from office when he ceases to command the support of a majority in the Dáil, unless the President on his advice dissolves the Dáil and the Taoiseach obtains a majority in the reassembled Dáil after a general election. The resignation of the Taoiseach automatically accomplishes the resignation of the entire Government. The organization and distribution of business among departments of state and the designation of members of the Government to be ministers in charge are matters to be determined by law.⁶¹

The Taoiseach is designed by the constitution of 1937 to serve as the working executive. The office is obviously the counterpart of the president of the Executive Council under the 1922 constitution. In the debates in the Dáil, the Cosgrave forces singled out the legal power of the Taoiseach to force a member out of the cabinet by advising the President to terminate the member's appointment. It was urged that this would produce a cabinet of straw men. In other words, Government policy would be whatever the Taoiseach made it, and collective responsibility would be a myth. De Valera (as was often the case in the debates) was not moved at all by the arguments of the opposition; he stressed the

⁶⁰ Article XXVIII, sec. 4, par. 2.

⁶¹ Article XXVIII. The opposition suggested to de Valera that "Prime Minister" rather than "Taoiseach" be used in the English version of the constitution, but he refused.

importance of the Taoiseach's having the legal authority to dispense with the services of a cabinet member who would not coöperate.

us, constitution
cloud Under Bunreacht na hEireann, the President, or formal executive, is to be elected by direct vote of the people. Every citizen having the right to vote at an election for members of Dáil Eireann has the right to vote at an election for President. The voting must be by secret ballot and by the system of proportional representation with a single transferable vote. The president holds office for seven years unless before the expiration of his term he dies, resigns, becomes permanently incapacitated, or is removed from office. He is eligible for reelection, but not to a third consecutive term.⁶³ Every citizen who is thirty-five years old is eligible for election as President. The President may not be a member of either branch of the legislature; if a member of either house is elected to the office, he is deemed to have vacated his seat in the legislature.⁶³

The President may be impeached by a two-thirds vote of the total membership of either house. If either house votes an impeachment, the other house must investigate or cause the charge to be investigated. A two-thirds vote of the house making the investigation is necessary to sustain the charge against the President and remove him from office.⁶⁴

Formally, the powers of the President under the new constitution are large. Actually, this is not the case, since most of the President's acts are to be undertaken on the advice of the Taoiseach or some other constitutional officer or officers. On nomination of Dáil Eireann, the President appoints the Taoiseach; on nomination of the Taoiseach, and with the previous approval of Dáil Eireann, he appoints the other members of the Government. Also, on advice from the Taoiseach, he summons and dissolves Dáil Eireann; but he may in his absolute discretion refuse to dissolve the Dáil on the

⁶³ Every candidate for election who is not a former or retiring president must be nominated by either (1) not less than twenty persons who are members of one of the houses of the Oireachtas or (2) not less than four administrative county councils, including county borough councils as defined by law. Former or retiring presidents may be candidates on their own nomination. (Article XII, sec. 4.)

⁶⁴ The President cannot hold any other office or position of emolument. He may not leave Ireland during his term of office except with the consent of the Government.

⁶⁵ Article XII, sec. 10. On the other hand, no action at law or in equity or other legal proceeding, civil or criminal, may be brought against a president during his term.

advice of a Taoiseach who has lost a majority in that body. The latter proviso is designed to permit the President to decide in cases of a change of Government against calling a general election in spite of advice to that end tendered by a defeated Taoiseach. In summoning the Oireachtas, the President is not entirely dependent on the advice of the Taoiseach. After consultation with the Council of State,⁶⁵ he may convene a meeting of either or both of the houses. The President may, after consulting the Council of State, communicate with the Oireachtas by message or address on any matter of national or public importance. After like consultation, he may address a message to the nation at any time on any similar matter; but every such message or address must have received the approval of the Government.⁶⁶ Other powers and duties conferred upon the President include the supreme command of the defence forces. However, the exercise of this command is to be regulated by law. The President is empowered to pardon or to commute punishment imposed by any court exercising criminal jurisdiction; and the power of commutation may, except in capital cases, be conferred by law on other authorities.

It was charged by the opposition in the Dáil that the powers given the President were unduly extensive and might pave the way to a dictatorship. De Valera answered by pointing out that most of these powers were to be exercised only on the advice of or after consultation with other agencies.⁶⁷ He quoted for the benefit of those who saw a dictatorship behind the presidential office the language of Article XIII, section 9:

The powers and functions conferred on the President by this Constitution shall be exercisable and performable by him only on the advice of the Government, save where it is provided by this Constitution that he shall act in his absolute discretion or after consultation with or in relation to the Council of State, or on the advice or nomination of, or on receipt of any other communication from, any other person or body.⁶⁸

In spite of the charges of dictatorship made in the Dáil, it seems obvious that the intent of the constitutional language is to create

⁶⁵ See *post*, p. 1060.

⁶⁶ Article XIII. For a discussion of the President's rôle in signing bills, see *post*, p. 1063.

⁶⁷ *The Irish Press*, May 26, 1937.

⁶⁸ While the Constitution authorizes the conferring of additional powers and functions upon the President by law, no such power or function is exercisable or performable by him save only on the advice of the Government, or after consultation with the Council of State as determined by law (Article XIII, sec. 10).

a titular executive, with authority to act generally on the advice of the Government or after consultation with the Council of State. Much of the charge of dictatorship was probably founded on the assumption that de Valera, who has been called the "unique dictator," would immediately seek the office of president for himself. When the campaign preceding the general election of July 1, 1937, was under way, de Valera announced that he preferred to serve as Taoiseach under the new constitution,⁶⁹ and less was heard thereafter about the dictatorial nature of the presidential office created by *Bunreacht na hEireann*.⁷⁰

Many of the acts of the President are to be performed on the advice of the Government; some, however, are to be performed only after consultation with a Council of State. This body consists of three groups of individuals: first, ex-officio members who include the Taoiseach, the Tánaiste, the Chief Justice, the president of the High Court, the chairman of Dáil Eireann, the chairman of Seanad Eireann, and the Attorney-General; second, every person able and willing to act who has held the office of president, of taoiseach, of chief justice, or of president of the Executive Council; third, such other persons as may be appointed by the President in his absolute discretion, no more than seven such persons serving as members at the same time. In cases where the constitution requires the President to consult the Council of State, an actual meeting must be called, and the members present shall have been heard before he takes action.⁷⁰

Provision is made in the constitution of 1937 for the exercise of the office of president under enumerated circumstances: by a commission to consist of the Chief Justice, the chairman of Dáil Eireann, and the chairman of Seanad Eireann, or specified alternative members. This commission is to function in the event of the absence of the President, or his temporary or permanent incapacity established to the satisfaction of the Council of State, or his death, resignation, or removal from office, or at any time at which the office of president may be vacant.⁷¹ In the course of the debates in the Dáil, opposition arguments moved de Valera to amend the draft of the constitution to give this commission additional power. Deputy Patrick McGilligan, of the Cosgrave opposition, elaborated upon the point that the President might refuse

⁶⁹ *New York Times*, June 17, 1937.

⁷⁰ Article XXXI.

⁷¹ Article XIV.

to perform ministerial acts. In other words, where required to act on the advice of the Taoiseach, for example, the President might use his own discretion. What remedy would there be, short of impeachment? Pursuant to this line of argument, de Valera moved an amendment empowering this "presidential" commission to act when the President failed to exercise or perform within a specified time any power or function which, by the constitution, he was required to exercise or perform.⁷² ✓

The constitution of 1937 gives the balance of power to the Dáil and creates a complicated set of rules governing the authority of the Seanad to delay legislation. Provision is made also for presidential action in referring bills to the Supreme Court to test their constitutionality and to the people for a referendum.) The authority of the senate depends upon the nature of the bill under consideration—whether it is an ordinary bill, a money bill, or a bill to deal with an emergency.⁷³

An ordinary bill passed by the Dáil goes to the Seanad for a "stated" period of ninety days, or a longer period as may be concurred in by both houses. If an ordinary bill is "either rejected by Seanad Éireann or passed by Seanad Éireann with amendments to which Dáil Éireann does not agree, or is neither passed (with or without amendment) nor rejected by Seanad Éireann within the stated period, the bill shall, if Dáil Éireann so resolves within 180 days after the expiration of the stated period, be deemed to have been passed by both houses of the Oireachtas on the day on which the resolution is passed."⁷⁴ Thus, the senate may only delay an ordinary bill for a period of less than three months, provided Dáil Éireann wishes to take immediate action after the lapse of the "stated" period.⁷⁵

A money bill may be initiated only in Dáil Éireann, and every money bill passed by the Dáil must be sent to the Seanad for its recommendations. If the senate makes recommendations, a money

⁷² Article XIV. For example, if the President refused to terminate the appointment of a cabinet minister on the advice of the Taoiseach, the commission would have constitutional authority to act.

⁷³ For purposes of clarity, these are hereinafter described respectively as ordinary bills, money bills, and urgent bills.

⁷⁴ Article XXIII, sec. 1, par. 1.

⁷⁵ An ordinary bill also may be initiated in the senate. If, however, the house introduces amendments, it is then treated as a bill originated by the house. The senate may then delay for the "stated" period, and the house may or may not take conclusive action within a subsequent period of 180 days.

bill must be returned within twenty-one days; and the house may then accept or reject any or all of the senate's proposals. If a money bill "is not returned by Seanad Eireann to Dáil Eireann within such twenty-one days or is returned within such twenty-one days with recommendations which Dáil Eireann does not accept, it shall be deemed to have been passed by both houses at the expiration of the said twenty-one days."⁷⁶

An urgent bill is one which is immediately necessary for the preservation of public peace and security or necessary by reason of a public emergency, whether domestic or international. It need not endure the waiting period prescribed for ordinary bills in the Seanad. The constitution allows the Dáil to abridge the waiting period by resolution with the concurrence of the President after consultation of the latter with the Council of State. However, a law passed as an urgent bill expires ninety days after its enactment unless both houses in the meantime shall have agreed upon and specified by resolutions a longer period.⁷⁷

Every proposal for an amendment of the constitution must be initiated in Dáil Eireann as a bill. Such a proposal must, in the first instance, go through the routine of ordinary bills. Then it must go to a popular referendum after it has been passed by both houses, or is deemed to have been passed by both houses.⁷⁸ For adoption, a constitutional amendment bill must receive at the referendum a majority of the votes cast thereon.⁷⁹ On the other hand, for a period of three years after the first President takes office, the constitution may be amended by an ordinary statute. This temporary arrangement was adopted to permit ease in the correction of any obvious flaws appearing in the constitution in its early operation. For a certain period, then, under the constitution of 1937, as was always the case during the operation of the con-

⁷⁶ Article XXI, sec. 2, par. 2. The constitution gives a detailed definition of a money bill and empowers the chairman of the Dáil to certify that a bill is a money bill. The Seanad may protest his rulings by asking the President to refer the question to a committee of privileges. If, after consulting the Council of State, the President decides to accede to the request, he appoints a committee composed of an equal number of members of the house and the senate and a chairman who must be a Supreme Court judge. The decision of the committee is final. If the President decides not to appoint a committee, or if the committee fails to report within a specified period, the certificate of the chairman of the Dáil is thereby confirmed (Article XXII).

⁷⁷ Article XXIV. A bill to amend the constitution may not be passed as an urgent bill.

⁷⁸ Article XLVI.

⁷⁹ Article XLVII, sec. 1.

stitution of 1922, amendment of the fundamental law may be made by statute.

After a bill has been passed, or is deemed to have been passed, by both houses, the Taoiseach shall present it to the President for his signature and for promulgation as a law. Except as otherwise provided, the President shall sign the bill not earlier than five and not later than seven days after its presentation; an earlier date for signature may be used at the request of the Government and with the prior consent of Seanad Éireann. An urgent bill must be signed on the day of presentation. However, the President has certain limited options. In the case of bills other than constitutional amendment bills, money bills, and urgent bills, he may, after consultation with the Council of State, refer a bill to the Supreme Court for a decision on its constitutionality. If the Court finds any provision of such a referred bill unconstitutional, the President shall decline to sign the bill. Correspondingly, an affirmative decision by the Court must be followed by the President's signing of the bill in question.⁸⁰

In the case of bills other than constitutional amendment bills, money bills, or urgent bills, the President may under certain circumstances have still another option. A majority of the members of Seanad Éireann and not less than one-third of the members of Dáil Éireann may by a joint petition request him to decline to sign and promulgate such a bill as law—on the ground that it contains a proposal of national importance on which the popular will should be determined. Such a petition must state the particular ground or grounds and must be presented to the President not later than four days after the bill is deemed to have been passed by both houses. The President must then consult with the Council of State, and must pronounce his decision within ten days after the bill is deemed to have been passed. If he declines to sign it, the bill cannot become law until it has been approved by a popular referendum (within eighteen months) or approved by a resolution of Dáil Éireann within a like period after a dissolution and a reassembly.⁸¹

⁸⁰ Article XXVI. In referring a bill to the Court, the President must take action not later than four days after presentation of the bill in question. The Court must pronounce its decision in sixty days. A decision of a majority of the judges constitutes the opinion of the Supreme Court.

⁸¹ Article XXVII. When a bill goes to a referendum, it is deemed to have been vetoed if a majority of the votes cast thereon are against it and such negative majority amounts to not less than thirty-three and one-third per cent of the voters on

The constitution contains five articles dealing with judicial organization. It declares that the courts shall include courts of first instance and a court of final appeal. The courts of first instance include a High Court and courts of local and limited jurisdiction. The High Court is invested with full original jurisdiction in and power to determine all matters and questions whether of law or fact, civil or criminal. The jurisdiction of the High Court also extends to the question of the validity of any law under the constitution. In all cases involving the validity of laws, the High Court alone can exercise original jurisdiction. The court of final appeal is to be known as the Supreme Court. Subject to such exceptions and regulations as may be made by law, it is given appellate jurisdiction from all High Court decisions.⁸² The decision of the Supreme Court is final and conclusive in all cases.⁸³

The judges of the Supreme Court, the High Court, and all other courts established under Article XXXIV are to be appointed by the President.⁸⁴ A judge of the Supreme Court or High Court may not be removed from office except for stated misbehavior or incapacity, and then only upon resolutions passed by the Dáil and the Seanad calling for his removal. The formal removal is made by the President. The remuneration of a judge of the Supreme Court or of the High Court may not be reduced during his continuance in office.⁸⁵

The exercise of judicial powers by administrative commissions is possible under the Constitution. Nothing in the constitution shall operate to invalidate the exercise of limited functions and powers of a judicial nature, in other than criminal matters, by any

the register. Unless vetoed in this manner, a bill is deemed to have been passed. This makes non-voters count for a bill. Article XLVII, sec. 2, par. 1.

⁸² It also has appellate jurisdiction from such decisions of other courts as may be prescribed by law.

⁸³ Article XXXIV.

⁸⁴ According to Article XIII, sec. 9, this is only a formal power to be exercised on the advice of the Government. The Attorney-General is to be appointed, and may be removed, by the President on the advice of the Taoiseach. Although not designated as a member of the Government, the Attorney-General retires upon the resignation of a Taoiseach but may continue to carry on his official duties until the succeeding Taoiseach is appointed (Article XXX).

⁸⁵ Article XXXV. Subject to provisions of Article XXXIV and XXXV, the following matters under Article XXXVI may be regulated by law: "i. the number of judges of the Supreme Court, and of the High Court, the remuneration, age of retirement and pensions of such judges, ii. the number of the judges of all other Courts, and their terms of appointment, and iii. the constitution and organization of the said Courts, the distribution of jurisdiction and business among the said Courts and judges, and all matters of procedure."

person or body duly authorized by law to exercise such functions and powers.⁸⁶

Under the constitution of 1937, no person may be tried on any criminal charge save in due course of law. Minor offences may be tried by courts of summary jurisdiction. De Valera did not carry over Article IIA of the old constitution into the new. This article permitted, pursuant to an order of the Executive Council, the setting up of courts of military officers with authority to punish in certain cases. However, de Valera did provide in the new constitution for the creation of special courts by law "for the trial of offences in cases where it may be determined in accordance with such law that the ordinary courts are inadequate to secure the effective administration of justice, and the preservation of public peace and order."⁸⁷ The constitution, powers, jurisdiction, and procedure of these special courts may be prescribed by law. Thus de Valera continues to make it evident that his administration, no more than that of Cosgrave, will tolerate the use of force and intimidation by extreme Republicans. For the effective prosecution of such groups, it might be necessary to reestablish some of the measures of Article IIA by law, and the new constitution takes cognizance of this possibility.

The three subjects relating to the new constitution which raised the most controversy in the Dáil were: the powers of the President; freedom of speech and of the press; and the rights of women. As to freedom of speech and of the press, the battle line was drawn with Fianna Fáil and Fine Gael supporting the respective sides of the ancient struggle between authority and liberty. The upshot of this controversy was that de Valera stood his ground on the draft section dealing with the regulation of the organs of public opinion. He accepted only an amendment protecting the liberty to criticize Government policy. Under Article XL of Bunreacht na hÉireann, the state guarantees liberty for the exercise of certain rights, subject to public order and morality. Among these rights is proclaimed the right of citizens to express freely their convictions and opinions. This is immediately qualified, however, by language which declares that the state "shall endeavour to ensure that organs of public opinion, such as the radio, the press, the cinema, while preserving their rightful liberty of expression, including criticism of Government policy, shall not be used to under-

⁸⁶ Article XXXVII.

⁸⁷ Article XXXVIII, sec. 3.

mine public order or morality or the authority of the State."⁸⁸

De Valera said that in asserting the power of the state to regulate the organs of public opinion in the interest of public order and morality he was making it clear to the people that liberty is not absolute. He was setting "headlines" for the legislature to follow. He contrasted the arguments of the Cosgrave opposition with the record of Cosgrave in power. In power, Cosgrave, according to de Valera, ran a "coach-and-four" through the constitution of 1922 by adding Article IIA. This nullified the constitutional principle that no one could be tried except by due process of law and that extraordinary courts might not be created. The reply of the opposition was that de Valera had made use of Article IIA after he came to power. No argument of the opposition availed to change de Valera's mind on the article dealing with freedom of speech and regulation of the organs of public opinion. His only concession was a Government amendment to the draft constitution by which it was conceded that criticism of Government policy was included within the rightful liberty of expression of the organs of public opinion.

The position of women under the new constitution incurred some misunderstanding and considerable resistance from feminine voters. In the draft submitted to the Dáil, it was provided that acquisition of and loss of Irish nationality and citizenship should be determined by law. In response to various arguments, this section was amended by the Government to provide that: "On the coming into operation of this Constitution any person who was a citizen of Saorstát Eireann immediately before the coming into operation of this Constitution shall become and be a citizen of Ireland. The future acquisition and loss of Irish nationality and citizenship shall be determined in accordance with law. No person may be excluded from Irish nationality and citizenship by reason of the sex of such person."⁸⁹ Likewise, the article concerning eligibility for membership in the Dáil was amended to assert the political equality of women. As introduced in the Dáil, Article XVI made "every citizen" who had reached twenty-one years of age and who had not been placed under disability or incapacity by the

⁸⁸ Article XL, sec. 6, par. 1. Similarly, the right of citizens to assemble peaceably and without arms is declared, then qualified by the authority of the state to provide by law for the prevention or control of meetings determined in accordance with law to be calculated to cause a breach of the peace, or to be a danger or nuisance to the general public. Likewise, the right of citizens to form associations and unions is qualified by the authority of the state to enact laws for the regulation and control in the public interest of the exercise of this right. (Article XL.)

⁸⁹ Article IX, sec. 1.

constitution or by law eligible to membership. In response to criticism, this was amended in the Dáil to include the phrase, "without distinction of sex."⁹⁰ Thus, in response to criticism of the opposition, de Valera reaffirmed the political equality of women, while at the same time protesting that the political equality of women had been established in the past; that it was no longer necessary to qualify constitutional clauses dealing with political rights by inserting phrases to indicate that there could be no distinction because of sex.⁹¹

While de Valera reaffirmed the political equality of women in several articles, he would not go farther. In the face of criticism from Fine Gael deputies, he would not change the force of the section dealing with the position of women in the home. He refused to accept any amendments to the following language: "In particular, the State recognizes that by her life within the home, woman gives to the State a support without which the common good cannot be achieved. The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home."⁹² Again, de Valera would not agree to any amendment to the opening section of the article on personal rights. This states: "All citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function."⁹³ Heated assertions on the part of the opposition that this language could be made to serve as the basis of discriminatory legislation against women in employment did not move de Valera to accept any change.

In response to controversy over the section dealing with the function of the state in protecting "workers," de Valera did move a Government amendment which reflects the intensity of the debates on the status of women. The draft constitution read: "The State shall endeavour to ensure that the inadequate strength of women and the tender age of children shall not be abused, and that women or children shall not be forced by economic necessity to enter avocations unsuited to their sex, age or strength." By a Government amendment, this language was changed to the following: "The State shall endeavour to ensure that the strength and health of workers, men and women, and the tender age of children shall not be abused and that citizens shall not be forced by eco-

⁹⁰ Article XVI, sec. 1.

⁹¹ *The Irish Press*, June 3, 1937.

⁹² Article XLI, sec. 2.

⁹³ Article XL, sec. 1.

conomic necessity to enter avocations unsuited to their sex, age, or strength."⁸⁴ Beyond doubt, the opposition deputies tried to make political capital out of the question of the rights of women under the new constitution. De Valera knew this and accordingly discounted their views. On the other hand, it seems likely that de Valera underestimated the reaction on this point which his draft had set in motion. In the first place, he left the question of the political equality of women to be resolved by interpretation of the constitution and only under criticism inserted phrases preventing discrimination on the ground of sex. In the second place, in view of the active part played by Irish women outside the home in the struggle for national independence and in the life of Saorstát Éireann, the constitutional language emphasizing that in Éire woman's place was to be in the home rather than elsewhere antagonized the feminist vote. In the third place, fear of specific discriminatory legislation under broad constitutional clauses influenced groups of women interested in earning a living. The reaction on the question of woman's rights was one factor which diminished the overwhelming majority de Valera had hoped to obtain for the constitution.⁸⁵

With respect to the family, marriage, religion, and private property, the constitution emphasizes Catholic teaching. Under it, the state guarantees to protect the family as the necessary basis of social order and as indispensable to the welfare of the nation and the state. The state agrees to guard with special care the institution of marriage. No law may be passed providing for the grant of a dissolution of marriage. The state acknowledges that man as a rational being has the natural right, antecedent to positive law, to private ownership of external goods. It recognizes, however, that the exercise of the right of private ownership and of the right to transfer, bequeath, and inherit property should be regulated by principles of social justice. The state recognizes the special position of the Holy Catholic Apostolic and Roman Church as the guardian of the faith possessed by the great majority of citizens. The state also recognizes the other religious denominations al-

⁸⁴ Article XLV, sec. 4, par. 2.

⁸⁵ During the campaign, a meeting of women graduates of the National University was held in the Mansion House in Dublin to protest the constitution as detrimental to women's rights in the state. To the contrary, the Cumann na mEan, an association of women who have played an active rôle in Irish political life, went on record in favor of the instrument. In a letter to de Valera, the association said it had taken "no part whatsoever in the seemingly organised drive against Bunreacht na hÉireann by the Women Graduates' Association and other women's societies." *The Irish Press*, June 30, 1937.

ready existing in Ireland and guarantees not to endow any religion. It guarantees to every citizen freedom of conscience and the free profession and practice of religion, subject to public order and morality.

The case for the constitution was presented and debated in the Dáil largely by de Valera himself. Few of the members of the Executive Council took any appreciable part. It appears from the number of quorum calls that many of the Fianna Fáil deputies were absent from the chamber while the debates progressed. They were never so far away, however, as to be inaccessible when a division was in order and de Valera needed votes to uphold his own draft of the constitution and to strike down an amendment put forward by an Independent, a Labour, or a Fine Gael deputy. At one stage of the deliberations he acknowledged that it had been essential to have one hand run throughout the entire document. The constitution was the supreme effort of the president of the Executive Council.⁹⁶ In the Dáil, the final vote was: for the constitution, Fianna Fáil, 61; Independent, 1; against, Fine Gael, 44; Labour, 1; Independent, 2; Independent Labour, 1.⁹⁷

In the general election of 1937, de Valera devoted most of his campaigning to explanation of, defense of, and pleas for the new constitution. It is characteristic of the man that he explains over and over again to the people the principles on which he stands. The campaign revealed, if this was necessary, how profoundly de Valera felt about the new constitution, how much he hoped for a huge majority, how much he deplored the fact that it had become a party issue. Confident of a return to power, he asked the people to give Fianna Fáil a majority in the Dáil so there would be no need to bargain with any other group. In constituency after constituency, he carried on an aggressive campaign for the new constitution, pausing only on occasion to answer the attacks of the opposition against his administration. Meanwhile, Cosgrave and his supporters were minimizing the constitution and hammering away at the high cost of living. The results of the election must have been disappointing to de Valera and Fianna Fáil. Because the constitution was made an issue between the parties, it received

⁹⁶ In the fall and early winter of 1936, everyone talked about the new constitution, but no one seemed to know much about it other than what de Valera had said in public addresses. In an interview with de Valera in December, 1936, mention of the new constitution brought from the President the remark that he was working on it. However, he was quick to point out numerous "hurdles" which the constitution must clear: the consent of the Executive Council, of Fianna Fáil, of the Dáil, and of the people.

⁹⁷ *The Irish Press*, June 15, 1937.

only a substantial rather than an overwhelming majority, and the growth of the Labour vote left Fianna Fáil with 69 deputies in a house of 138. At the conclusion of the poll, de Valera seemed to have two major alternatives: to carry on during the next four or five years with the support of Labour and a corresponding recognition of Labour's view, or to carry on in this way only temporarily and seek a fresh mandate in 1938 at a general election.

The constitution, according to Article LXII, comes into operation on the day following the expiration of 180 days after its approval "by a majority of the votes cast at a plebiscite thereon," or on an earlier day fixed by Dáil Éireann.⁹⁵ The first President is to enter upon his office not later than 180 days after the date of the coming into operation of the constitution. It has been bruited abroad that Sean T. O'Kelly, vice-president of the Executive Council, will be the choice of Fianna Fáil for the office of president. If de Valera is to seek a clear majority for Fianna Fáil in the Dáil by calling a general election in 1938, a logical scheme would be to hold a general election coinciding with a presidential election during the first six months of next year.

In internal affairs as in external affairs, de Valera, in the new constitution, has lived up to advance indications. He promised the Ard-Fheis of Fianna Fáil in November, 1936, that the constitution would follow in internal affairs the general system of government familiar to the Irish people. The new constitution does incorporate the familiar principles of a cabinet responsible to the lower house, and of an upper house with power to delay but not to obstruct legislation. The framework of the constitution of 1937 is basically that of the 1922 constitution, with additions and subtractions. The new President will be, in general, a nominal executive. As such, he will take the place of the governor-general. How he will use his discretionary powers, and to what extent he will prove influential in dealing with the Government, remains to be seen. The series of interrelationships between the Government, the President, and the Council of State will have to be clothed with custom as well as with the sheer constitutional fabric. If the past is any guide, however, the Taoiseach of Éire, like the president of the Executive Council of Saorstát Éireann, will be the dominant figure. In his work of reconstruction, de Valera wisely preserved much of the old material. √

⁹⁵ In the absence of action by the Dáil, the constitution comes into operation on December 29, 1937.

AMERICAN GOVERNMENT AND POLITICS

First Session of the Seventy-fifth Congress, January 5, 1937, to August 21, 1937. In an atmosphere of profound awe of the unprecedented popularity of Franklin D. Roosevelt, the members of the Seventy-fifth Congress convened, on January 5, 1937, for their first session. Many legislators were keenly conscious that their presence in Washington was due largely to that inspired political leadership which had produced tremendous Democratic majorities throughout the nation. With the surviving remnant of opposition benumbed and quiescent, the view was prevalent that the patriotic duty of Congress would be "to have the courage of the President's convictions."

Encompassed by such adulation, Mr. Roosevelt construed his electoral triumph as an importunate mandate to accelerate the enactment of the social policies for which he "had just begun to fight." Fearful, however, that administrative ineptitude and judicial disapprobation would thwart the success of his program of social legislation, the President delayed the presentation of new substantive measures until after he had dramatically demanded drastic reorganizations of the executive and judicial branches. It was soon apparent that the inevitable consequence of these fundamental reforms would be to enhance the power of the presidency, and compel a readjustment of some traditional notions about our governmental mechanism.

Coincident with the realization by many citizens of the full import of proposed presidential innovations, aggressive leaders of labor were using novel tactics, generally considered illegal, in industrial disputes. The double challenge to historic legal and political traditions caused numerous voters to abate their zeal for reform and to react sympathetically again to old formulæ. While still paying homage to the leadership of Mr. Roosevelt, the obfuscated public also gave aid and comfort to those legislators who blocked the paths into which he sought to lead.

A spectacular battle ensued. The cohorts of the President maintained that the adoption of his proposals was indispensable to the ultimate success of American constitutional democracy. Only thus, they stoutly argued, could social amelioration be obtained and revolution and dictatorship averted. The existence of a strong executive, legally endowed with vast power and subject to popular control, was defended as the best possible antidote for irresponsible dictatorship. Contrariwise, the disciples of the *status quo* and the champions of alternative routes to social progress asseverated that augmented executive power, whether or not first grasped legally and peacefully, was invariably the prelude to despotism.

Thus, sincere believers in constitutional democracy, though espousing

antithetical programs of avoiding dictatorship, spent the session in a forensic fracas. After nearly eight months of debate devoted largely to this fundamental problem confronting all democracies, Congress adjourned, weary and disconsolate. The vast army of Democrats which Franklin Roosevelt had led to victory was divided and battle-scarred. The bitterness of the internal strife was revealed on the last day, when, adjourning without having reorganized either the administrative or judicial branches, or enacted legislation sponsored by the President in collaboration with organized labor and agriculture, Senate Democrats vehemently indulged in mutual recriminations and threats of reprisal.

After the late August adjournment, both factions "took their cases to the country." Convinced that his Western journey again demonstrated the popularity of his program, the President has since called Congress into "extraordinary session." Whether he can, by holding in abeyance his court enlargement project, reform his majority and bring to fruition his other plans, will soon be discovered.

Organization. The House of Representatives, when it met, consisted of 332 Democrats, 89 Republicans, eight Progressives, and five Farmer-Laborites. One Republican seat was subject to a vigorous contest, still undecided.¹ A Kentucky vacancy was soon filled by a Democrat.² During the session, five Democrats and two Republicans died; one Democrat resigned. Four districts elected new members, none veering in party allegiance. Since adjournment, John P. Higgins, Democrat, has been appointed chief justice of the Massachusetts superior court. Nine other members, mostly Democrats, failed to respond on two-thirds of the House roll calls.³

The Senate was composed of 76 Democrats, 16 Republicans, two Farmer-Laborites, one Progressive, and George W. Norris, Independent. This includes Herbert E. Hitchcock, Democrat, of South Dakota, who, by appointment, had replaced Peter Norbeck, deceased Republican; and Senator Smathers who, due to the exigencies of New Jersey state politics,⁴ did not take his seat until April 19. Senators Shipstead, Glass, Donahey,

¹ The resolution of the Committee on Elections, Number 3, to seat the Democratic contestant was recommitted with instructions to poll the 458 voters of Newton, a small New Hampshire town. *Record*, p. 11927. All references to the *Congressional Record* in this article are to the unrevised and unbound copies.

² The vacancy was created by the death of Glover H. Cary, Democrat, December 5, 1936.

³ This is exclusive of Speaker Bankhead, who voted rarely, but does include Christopher D. Sullivan, leader of Tammany Hall, who spent most of his time in New York City. Most absences, however, were due to illness.

⁴ The vote of State Senator Smathers was needed at Trenton by the local Democratic organization, which is now recalling A. Harry Moore from the United States Senate to run again for governor.

and Norris had protracted absences due to illness. During the session, George L. Berry, long a leader of organized labor, was appointed upon the death of Nathan Bachman of Tennessee. No successor appeared for Joseph T. Robinson of Arkansas. When Hugo L. Black, of Alabama, resigned to become an Associate Justice of the Supreme Court, Governor Graves gave to his own wife the following credentials: "Reposing full trust in your prudence, integrity, and ability, I do, by virtue of the power and authority in me vested as governor of Alabama, hereby commission you a United States senator . . . to have and to hold the said office, together with all the rights, powers, and emoluments to the same. . . ."⁵

Already at a record low, Republican membership was decimated in the 1936 election. Unable to prevent suspensions of the rules, the Republicans failed occasionally to muster sufficient strength to force a yeas and nays vote on partisan issues.⁶ This condition, while ordinarily conducive to irresponsible legislation, was counteracted by the fact that the majority party, lacking a dreaded enemy to unite it, found Republican weakness a divisive factor. The high tides of Democratic sentiment, sweeping farther north with each recent election, have left Republicans in half the states unrepresented in either branch of Congress. The only states now without Democratic representation are Maine, Vermont, and North Dakota. It is impossible for the Republicans to regain control of the Senate at the next election.⁷ Were they to succeed in the House, the center of political gravity there would be shifted from the agricultural South to rural areas in New York, Massachusetts, and Michigan.

The speakership of the House went again to William B. Bankhead, first chosen in June, 1936. Bertrand Snell was unopposed as minority leader. The Farmer-Labor-Progressive conference unanimously chose Gerald J. Boileau, of Wisconsin, floor leader. Vigorous campaigns, however, were waged by John J. O'Connor, of New York, and Sam Rayburn, of Texas, to become majority leader and heir-apparent to the speakership. The usual sectional issue did not develop because Mr. O'Connor, due to his economic views and political trades, had secured the support of a considerable number of Southerners. Mr. Rayburn's following came largely from New Dealers of the North and West. Although the Presi-

⁵ *Record*, p. 12055.

⁶ " . . . the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal." Constitution, Art. I, Sect. 5, par. 3. For example, Republicans were unable to force a record vote on the bituminous coal bill, or the motion to recommit the Interior appropriation bill with instructions to reduce it by ten per cent. *Record*, pp. 2701 and 6350.

⁷ As there is inadequate space on their own side of the aisle, thirteen Democrats must now sit behind the Republicans.

dent averred his neutrality, Vice-President Garner's open endorsement of his fellow-Texan then appeared significant. Senator Guffey, among others, aroused ill-feeling by participating in the House contest in behalf of Mr. Rayburn, who eventually carried the Democratic caucus, 184-127.

Key Pittman, of Nevada, as president *pro tempore* of the Senate, frequently presided, especially during the extended vacation taken by Vice-President Garner in the midst of the court reform struggle. Charles L. McNary, of Oregon, continued as minority leader, although Arthur H.

IMPORTANT CONGRESSIONAL COMMITTEES, 75TH CONGRESS⁸

SENATE

<i>Committee</i>	<i>Demo- crats</i>	<i>Repub- licans</i>	<i>Others</i>	<i>Chairman</i>	<i>State</i>
Agriculture	14	3	2	Smith	South Carolina
Appropriations	19	5		Glass	Virginia
Banking-Currency	16	4		Wagner	New York
Commerce	14	6		Copeland	New York
Education-Labor	10	2	1	Black ⁹	Alabama
Finance	16	4	1	Harrison	Mississippi
Foreign Relations	16	4	2	Pittman	Nevada
Interstate Commerce	16	3	1	Wheeler	Montana
Judiciary	14	3	1	Ashurst	Arizona
Military Affairs	12	4	1	Sheppard	Texas
Naval Affairs	13	4		Walsh	Massachusetts

HOUSE

Agriculture	17	7	1	Jones	Texas
Appropriations	28	11		Taylor ¹⁰	Colorado
Banking-Currency	18	7		Steagall	Alabama
Foreign Affairs	18	7		McReynolds	Tennessee
Interstate Commerce	20	7	1	Lea	California
Judiciary	19	6		Sumners	Texas
Labor	15	5	1	Norton ¹¹	New Jersey
Military Affairs	18	6	1	Hill	Alabama
Naval Affairs	18	7		Vinson	Georgia
Rules	10	4		O'Connor	New York
Ways-Means	18	7		Doughton	North Carolina

⁸ As of August 16, 1937. See *Record*, p. 11615.

⁹ Mr. Black's resignation makes logical the choice of Elbert D. Thomas, of Utah, as chairman.

¹⁰ When the session began, James P. Buchanan, of Texas, was chairman. His death resulted in the selection of the ailing Mr. Taylor as *de jure* head, and of Clarence Cannon, of Missouri, as *de facto* chief.

¹¹ William P. Connery, of Massachusetts, was chairman until his death in late June. Mrs. Norton resigned as chairman of the Committee on the District of Columbia to succeed him.

Vandenburg, of Michigan, was the most active Republican opponent of the New Deal. Until his death in July, Joseph T. Robinson, of Arkansas, directed the Democratic army with extraordinary competence. In the ensuing brief but tense contest over the mantle of leadership, Alben W. Barkley, of Kentucky, supported mainly by the newer and liberal Democratic senators, defeated Pat Harrison, of Mississippi, by one vote. Thus the Senate majority is now led by one still serving his second term. Twelve of his Democratic colleagues have greater Senate experience by four or more years.

Sixty per cent of the representatives and half of the senators have now served less than five years in Congress. This tremendous turnover, due largely to the influx of Northern Democrats, has seriously affected committee structure. Each election has created numerous choice vacancies for those regularly returned from safe constituencies. Minor committees, however, are now operated by men with scanty legislative training. As the average experience, compiled last January, of House Democrats was five and a half years, and of Republicans nearly eight years, the small minority on most House committees knew its job better than did the majority. The average Republican, for instance, on the exclusive Ways and Means Committee had been in the House nearly nine years longer than his Democratic colleagues.

The table on page 1074 shows the present apportionment of committee positions among the parties. In the Senate, the ratio is variable as an accommodation to Republican incumbents who did not wish to be shifted. All minority members, except Ernest Lundeen, who requested otherwise, are assigned out of the Republican quota. Of the two Farmer-Laborites, Mr. Lundeen is ranked last among the Democrats, and Mr. Shipstead similarly among the Republicans. As a liberal gesture,¹² the Republicans permitted Senators La Follette and Norris to retain seniority privileges. Thus the former is now ranking minority member of both Finance and Manufactures, while the latter has a comparable standing in Agriculture and Patents. That they would regain chairmanships, were the Republicans to win control of the Senate, is doubtful.

In the House, third parties customarily receive committee assignments from the majority quota. The Republican conference punished Usher Burdick and William Lemke for disloyalty by placing them last on insignificant committees. Burdick promptly resigned all assignments, stating: "I am not in sympathy with the present leadership of the Republican party in this House and will not accept this demonstration of party punishment."¹³ The Farmer-Labor-Progressive group was similarly displeased with its treatment by the Democrats. Only three major

¹² *New York Times*, December 23, 1936.

¹³ *Record*, p. 293.

committee assignments were received, whereas its numerical strength, if considered a separate party, would entitle it to ten. Mr. Boileau eloquently but ineffectually demonstrated also that his following, if consolidated with the minority, would have received privileges superior to those of comparable Democrats.¹⁴ Due to the scarcity of Republicans, those surviving did obtain cherished positions easily in both houses. New members got on the best committees and veterans had a wide choice. In the Senate, most minority legislators served on six committees, most Democrats belonged to five.

The prestige value of the various committees can be estimated from the legislative experience of their members. At present, the members of the Ways and Means Committee average over twelve years in the House, and those on Rules over thirteen. By contrast, those on Labor have served five years, and those on Indian Affairs only four. To this latter committee, three third-party members have been relegated, yet three vacancies remain.

There is a tendency for committees to represent special interests, leaving the guardianship of the general welfare to the full houses and the Executive. Ex-soldiers seek places on the committee dealing with veterans; members from the farm states control the committees on Agriculture. Only four senators on Agriculture, three of them from cotton states, reside east of the Mississippi. Similarly, a large majority on Finance, the tax and tariff committee, represent industrial states of the North and East. Naval Affairs committeemen are usually delegates from shipyard or steel areas. Thus, legislation seems to be drafted by those representing producers rather than consumers.

In some instances, both senators from a state may belong to the same committee. This is true of Pennsylvania on Mines and Mining, and Kansas on Agriculture. It is less obvious why Nebraska and Nevada should each send two to Judiciary, or Idaho and Wisconsin be doubly protected on Foreign Relations. On this latter committee, the three senior members on each side live west of Lake Michigan, with only Maine, New York, and Georgia represented among the Atlantic Coast states. In the comparable House committee, the East is well represented, three of the seven minority members coming from Massachusetts.¹⁵ Peculiarly, New Jersey, due to the belated addition of Mr. Smathers, is the only state among the eleven largest to be represented on Senate Post Offices, a majority of whose members serve states with four or less electoral votes.

Members attempt to avoid service on those committees which pay no

¹⁴ *Ibid.*, pp. 250-259.

¹⁵ The recent addition of the third Massachusetts member, Mrs. Rogers, to the Foreign Affairs minority, is supposedly motivated by her desire to participate more fully in diplomatic social activities.

political dividends. The House Committee on the District of Columbia provides an illustration. When the explanation of a District bill was criticised, it was answered that: "It is a labor of love with the members who do serve on that committee. It is a gratuitous service for which you get no credit back home. The gentlemen would be surprised at the time it takes from one's own time in serving one's own constituency or the country."¹⁶ Likewise with regard to those requested by the leaders to function as a committee of unofficial objectors to improper private bills: "I have discovered that after a man has done this work for one session or for one term he always has some very real excuse with regard to why he should not be asked to serve in this capacity a second time. I almost had to force the men on this side to take these positions and do the work."¹⁷

House and Senate differences over 51 measures, including 13 private bills, were reconciled by conference committees. Six minor bills remained in conference at adjournment. Except for private bills, where the standard ratio remains at three conferees from each house, these committees are growing larger. About one-third of the conferences on public bills were conducted by more than ten men. After bitter argument between the chambers over the form of the military appropriations bill, it was divided into two separate measures.¹⁸ To confer over funds for the Non-Military Establishment, 11 senators faced eight representatives; over the Military Establishment, the ratio was seven to eight. Nine representatives contended with five senators over relief expenditures.

Procedure. The House of Representatives promptly adopted the rules of the previous House with only 31 dissenting votes.¹⁹ In their application, however, there was unusual leniency this year. Especially during the early part of the session, unanimous consent "to address the House" was easily obtained. Two or more hours of a daily session were frequently devoted to these formal speeches on divers subjects. General debate on appropriation measures, moreover, was extensive and usually irrelevant. When sitting as a committee of the whole, *pro forma* amendments to "strike out the last word," or the "last four words," were numerous, thus gaining five more minutes *pro* and *con*. Even the rules committee was generous in its allotments of time. Minor measures at the session's close, such as those dealing with helium gas, or the reindeer industry in Alaska, received an hour,²⁰ but the rule for consideration of the neutrality bill granted ten hours.²¹ Like most others this session, the latter was also an

¹⁶ *Record*, p. 2482.

¹⁷ Remarks of Mr. Snell. *Record.*, p. 5436.

¹⁸ *Record*, pp. 8604-8615.

¹⁹ *Record*, p. 13. The only organized opposition was among the third party members.

²⁰ *Record*, pp. 12117, 12149.

²¹ *Ibid.*, p. 2621.

"open" rule, giving freedom of amendment. The Foreign Trade Agreements Act was considered without benefit of rule, debate being restricted by unanimous consent to ten hours, later extended to twelve.²²

Furthermore, important colloquies often developed from pretended objections to the unanimous consent agreements by which much of the business of both houses is transacted. "Reserving the right to object, and of course I shall not object, I just want to ask . . ." was a formula often employed to interpose questions. Representative Rich, of Pennsylvania, specialized in utilizing such requests as occasions for interjecting partisan jibes and for parading figures on Democratic daily deficits. In all formal debates, time is apportioned evenly between the two major parties, thus giving Republicans individually considerably more opportunity to talk.

Throughout the session, the representatives met oftener and longer than the senators.²³ The Senate, convening only two-thirds of the time for brief sessions, nevertheless kept its calendar cleared until the month before adjournment.²⁴ That several appropriation bills were passed after the new fiscal year began was due to their belated presentation by committees.²⁵ The responsibility for such delay is generally attributed to the confusion and excitement accompanying the court-reform struggle.

Though blessed with superfluous time, the Senate debated measures briefly until July. Important appropriations were discussed perfunctorily and voted. Occasionally, the upper chamber, by unanimous consent, voluntarily curtailed debate on such important measures as the neutrality, relief, foreign trade agreements, and fair labor standards bills. Once, however, when the new floor leader's signals were imperfectly executed,²⁶

²² *Ibid.*, p. 1012.

²³ During April and May, the Senate convened only 25 times, for sittings averaging less than three hours each. During this same period the House met 40 times in sessions averaging over four and one-half hours.

²⁴ On May 26, Senator Robinson stated: "The Senate has kept well up with its work during the present session, as is indicated by the small number of bills on the calendar. Until the committees report additional proposed legislation, there is little business of importance to be transacted in the Senate." *Record*, p. 6578. On March 8, he had said: "For the first time in my memory, at this advanced stage of the session there is no general legislation of importance on the calendar of the Senate other than the bill referred to by the senator from New York." *Record*, p. 2453.

²⁵ On June 23, Representative Taber stated with regard to the appropriation bills: "The calendar is in the worst condition I have ever known in my legislative experience." *Record*, p. 8099.

²⁶ Senator Barkley had requested the Vice-President to recognize Senator King, Walsh, or Sheppard upon the disposition of the helium bill. After plans had gone awry, Mr. Garner explained: ". . . the chair looked around and tried to find either one of the senators referred to standing. None was standing, but the senator from New York was on his feet and demanding recognition When three senators are on their feet demanding recognition, the chair has the privilege of choosing the

Senator Wagner was recognized and succeeded in making an anti-lynching bill the unfinished business. A filibuster, led by a Texas senator, ultimately resulted in a compromise "special order" for consideration of the bill early in the next session.²⁷

When Senator Robinson submitted the compromise judiciary reform bill as a substitute for the measure reported adversely by the committee, he grimly warned that if a threatened filibuster developed, it would be a case of "dog eat dog."²⁸ Alleging that in a test of physical endurance he "would probably come out . . . better than those who are in opposition,"²⁹ an early vote was requested. As he had the votes necessary to control Senate procedure, recesses, rather than adjournments, were taken each day. Furthermore, to thwart dilatory tactics, a rule was enforced which forbade more than two speeches on a subject in one day. By interpreting the rule to mean "legislative," rather than "calendar," day, opponents were to be limited to two speeches each against the bill.³⁰ Furthermore, the president *pro tempore* decreed that a speech was completed when one yielded for anything other than an interrogation, even a quorum call.³¹ A plethora of points of order and parliamentary inquiries, though time-consuming, failed to upset the chair's constrictive rulings. The opposition dared not appeal the decisions lest an adverse vote portend its ultimate defeat.

In retaliation, court bill opponents objected to all requests for unanimous consent. Even the Administration's farm bill could not be introduced until a new legislative day was begun. The court reformers agreed to consider "emergency" measures and conference reports if time limits were placed on discussion. As this qualification displeased Senator Wheeler and others, unanimous consent was lacking. For several days the deadlocked sides jockeyed for position, not only in the Senate but before the bar of public opinion. Senator Robinson's death, however, suddenly destroyed his majority and ended the drama. In the failure to complete this experiment in defeating a filibuster by a novel interpretation of the regular Senate rules, it is possible that a valuable precedent for the future was lost.

The bizarre history of the court reform bill affords yet another procedural novelty. After emasculation in committee, it again appeared before the Senate as an amendment to H. R. 2260. A brief explanation by its new sponsor was followed by desultory comment. Finding senators in-

one to recognize; but when only one senator is standing and demanding recognition, the chair has no choice. When the present occupant of the chair was the presiding officer of another body, he could recognize a member in his seat and ask him to stand up." *Record*, p. 11180.

²⁷ *Record*, p. 11241.

²⁸ *Record*, p. 8795.

²⁹ *Ibid.*

³⁰ *Ibid.*, pp. 8919-8921.

³¹ *Ibid.*, p. 9223.

attentive, the Vice-President hurriedly put the measure to a vote and declared it adopted by unanimous consent. When the stunned senators, including the Democratic whip, realized what had transpired, they demanded the privilege of announcing their position on the bill. The Vice-President preëmporarily ruled that: "Without objection, all senators will have an opportunity to extend their remarks in the *Record* as to how they had expected to vote on this bill."³²

Despite congressional inaction on several important proposals, more laws were enacted, both public and private, than in any recent first session. Probably more private bills were passed than in any year since 1907. To this abundance of bills the House contributed heavily; had not Senate committees failed to consider many House products, the total would have been higher. In the lower chamber, 1,506 measures were reported, a few adversely.³³ Of these bills, 710 were placed on the Private Calendar, now called on the first and third Tuesday of each month; 194 on the House Calendar; and 595 on the Union Calendar. From the House and Union Calendars, 531 bills were transferred to the Consent Calendar, called on the first and third Mondays. Of the 32 measures remaining on the Consent Calendar at the session's end, one had been "passed over without prejudice" six times, and several others four times. The purpose of the calendar seems to be defeated when, by unanimous consent, such dilatory devices may be substituted for an objection. Of the 1,294 measures reported in the Senate, all were placed on one calendar, which was frequently called for the passage of "unobjected bills."

The quantity of House legislation was augmented by the liberal use of Calendar Wednesday for measures not suitable for the Consent Calendar. Whereas during the entire Seventy-fourth Congress only eight Wednesdays were devoted to the call of committees, 20 were thus employed this year.³⁴ Every House committee except Memorials had three unrestricted opportunities to present cherished projects. On June 30, the Democratic leader declared: "This calendar has been called more in the last six months than in any four years of my experience in the House."³⁵ One bill, originally enacted on Calendar Wednesday,³⁶ was passed over the President's veto. Among the many bills thus passed were those dealing with the retirement of justices and the appearance of the attorney-general in constitutional cases. The former measure was respon-

³² *Ibid.*, p. 10925.

³³ Instead of smothering resolutions aimed to embarrass the Administration, committees often reported them adversely, accompanied by comment from administrative departments. See, for example, the report of the Labor Committee, *Record*, p. 8531.

³⁴ There was not one Calendar Wednesday during 1936.

³⁵ *Record*, p. 8564. Speaking of the Immigration Committee, Mr. Dickstein said: "This is the first day we have had in 16 years." *Ibid.*, p. 3013.

³⁶ *Record*, p. 3466.

sible for the retirement of Justice Van Devanter, and the latter, H. R. 2260, was the ultimate vehicle of the Senate court reform compromise.

Of the 27 discharge motions filed during the session, the only one signed by a majority of House members provided for the discharge of the Committee on Rules from the consideration of H. R. 1507, the Gavagan anti-lynching bill. Endeavoring to forestall a vote on this motion, the Judiciary Committee, on Calendar Wednesday, called up a milder proposal sponsored by Representative Mitchell, Illinois negro. When Mr. Fish, after an attempt at filibustering, "raised the question of consideration," the House voted not to consider the Mitchell bill.³⁷ Five days later, the Rules Committee was discharged from consideration of the Gavagan bill, which technically, the bill having never passed a standing committee, it had no power to consider.³⁸ By this anomalous method, a Democratic House, despite the fervent exhortations of prominent Southerners,³⁹ finally accepted an anti-lynching measure.

In March, Chairman O'Connor explained, in connection with the rule for consideration of the neutrality bill, that "The prime function of the Rules Committee is to serve the other standing committees of the House and the organization of the House. When it is considered that a measure is of sufficient importance to be laid before the membership for consideration, the Rules Committee acts, irrespective of the individual views of its members as to the merits of the proposals."⁴⁰ When the Fair Labor Standards bill, previously approved by the Senate and in fulfillment of a Democratic platform pledge, was reported favorably by the Labor Committee on August 7, it was expected that the Rules Committee would promptly give it the right of way. An alliance, however, of Southern Democrats and Republicans, comprising a majority of the committee, persistently refused to report out a special rule. As the project was too important to bring up under suspension of the rules, which permitted only 40 minutes of debate, and as it was too late in the session to use a discharge motion, the Administration was helpless. With impunity, these members usurped the function of law-making committees and defied a large majority of the House and the House leadership. Mr. O'Connor apologized thus: "Where I could borrow votes before to get out the Wagner bill and the Guffey coal bill, nobody is lending anything these days."⁴¹

³⁷ *Record*, pp. 4139-4141.

³⁸ *Vide* Mr. O'Connor's speech. He exclaimed: "I am against lynching . . . but I could hardly be asked to discharge myself from something with which I had nothing to do." *Record*, p. 4343.

³⁹ *Vide Record* for April 19, 1937. Even Speaker Bankhead asked that his name be called in order to register his opposition. *Record*, p. 4575.

⁴⁰ *Record*, p. 2764.

⁴¹ *Ibid.*, pp. 11664. See also pages 11665-11667.

Historically, the Rules Committee, officially the servant of the House, has often served as an agency of the White House in preventing the expression of House sentiment. Rarely before, however, have both House and Administration been checkmated by its strategically situated members. Nevertheless, had all factions of organized labor been enthusiastic for the drastically revised wages and hours bill, Chairman O'Connor would have experienced less difficulty in arranging sufficient "trades" with Southerners to get the proposal before the House. In the special session, his bargaining power will be augmented.

The region which supplied the chief opposition to the anti-lynching bill, and which checked the minimum wage and maximum hours project, also led a congressional attack on labor's new weapon, the "sit-down." The House Rules Committee revealed its conservatism in labor matters by favorably reporting a resolution to investigate "sit-down strikes." Though ably championed by those who fought the Gavagan bill, this new proposition "to curb lawlessness" was rejected by the politically-minded representatives, 236 to 149.⁴³

One of the most heated controversies in the Senate involved the proposed Byrnes amendment to the bituminous coal bill. There was labor peace in the industry affected, yet Senator Byrnes capitalized the opportunity to force a vote on the "sit-down issue." Administration leaders, seeking to safeguard the President's precarious position of neutrality in the labor war, unavailingly attempted several parliamentary tricks to sidetrack the amendment.⁴⁴ After several days of maneuvering, a less politically harmful compromise was evolved. Administration leaders promised that if the Byrnes Amendment were defeated, a resolution, condemning not only "sit-downs" but the sins of employers also, would be promptly considered.⁴⁵ Political foes of the Administration were chagrined when the substitute proved to be a concurrent resolution which, unlike the expected joint resolution, did not require presidential action. Thus the condemnation of "sit-downs" and industrial spies was an expression of congressional opinion, and did not place Mr. Roosevelt "on the spot."⁴⁶

Executive Leadership. As a political leader, Mr. Roosevelt has answered the cry for national unity prevalent in the United States as elsewhere in a chaotic world. With parties sectionally controlled, and congressmen harnessed to their localities, the President, especially if he be a political genius, has superb opportunities for becoming the hero of the masses. As the trusted champion of the vast majority who seek the "more abundant life," Mr. Roosevelt was endowed with moral, but not legal, author-

⁴³ *Record*, p. 4215.

⁴⁴ *Record*, pp. 3903-3930.

⁴⁵ *Record*, pp. 3978-3993. The vote on the amendment was 36-48.

⁴⁶ *Record*, pp. 4118-4133. The vote on the innocuous concurrent resolution was 75 to 3.

ity to improve our social and economic order. Our Chief Executive was reelected with a legislative mandate. Due to the separation of powers within our political parties, however, many Democrats elected to legislative office did not endorse the personal platform of the party's candidate for chief executive and chief legislator. Thus the President needed a different set of talents to appeal, not this time to the multitude, but to congressmen, each devoted to the interests of his particular district. In this respect, the President's achievements during the first session were not notable.

This does not mean that Congress undertook the function of legislation. With few exceptions, it remained the arbiter between conflicting pressures. The main difference between the past session and its immediate predecessors was the diminution of the group of loyal New Dealers who adhere to the British formula of allowing the Administration to govern, believing the interpretation of the government's actions before the people to be their special duty. The nature of Mr. Roosevelt's projects cost him much of this support. It is traditional that those who, yielding to other pressures, fail to ratify presidential proposals should disguise their opposition as an endeavor to maintain the integrity and independence of the legislative branch of government.

During the session, 63 formal messages were transmitted to Capitol Hill from the White House. In addition, Congress received 816 communications from the executive departments. On the session's second day, after verifying the count of electoral votes, the Congress listened to the President's annual message, the sixth address personally delivered by Mr. Roosevelt. In this unique situation, the President explained: "For the first time in our national history, a President delivers his annual message to a new Congress within a fortnight of the expiration of his term of office. While there is no change in the presidency this year, change will occur in future years. It is my belief that under this new constitutional practice the President should in every fourth year, in so far as seems reasonable, review the existing state of our national affairs and outline broad future problems, leaving specific recommendations for future legislation to be made by the President about to be inaugurated."⁴⁶

Prior to the inaugural, however, "specific recommendations" began to arrive. Although administrative reorganization had long been on the agenda, the concrete plans proposed were more far-reaching than anticipated.⁴⁷ In early February, the drastic court-reform program descended upon Congress without warning, stunning even Democratic chieftains. The prestige of party leaders became seriously impaired, as they were

⁴⁶ *Record*, p. 87.

⁴⁷ For an excellent treatment of administrative reorganization in the Seventy-fifth Congress, see note by Joseph P. Harris in the October number of this *REVIEW*.

often able neither to predict nor explain executive policies. "Surprise messages" joined "must legislation" on the list of congressional grievances against the President. Some executive dispatches, nevertheless, were warmly received. When the President proposed an investigation of tax evasion and avoidance by the affluent, Congress responded with alacrity, hopeful of finding a political scapegoat for diminished Treasury receipts.

Thirty-eight congressional products failed to gain legal effect, due to the President. Twenty-three of these measures were killed after adjournment by the pocket or absolute veto. Of the seventeen bills returned to Congress with the President's objections, two were repassed by more than a two-thirds vote and became law. This defiance of executive will was aided and abetted by powerful pressure groups, in one case organized agriculture, and in the other organized ex-soldiers.

Many measures, furthermore, to which the President ultimately affixed his signature were not to his liking. A strenuous effort to modify the sugar production and control measure before it reached his desk was unavailing.⁴⁸ Signing the bill reluctantly, the President verbally castigated the coalition of pressure groups responsible for its passage. The isolationist faction which sponsored the neutrality law had, by the Nye investigation, so effectively exploited nation-wide anti-war sentiment that apostles of other peace doctrines were helpless. Opposition to the neutrality bill was popularly deemed subservience to Wall Street and the munition-makers. Thus Administration leaders, yielding several trenches, fought for presidential discretion in the application of the law. The compromise finally achieved, though severely restricting executive freedom, has not prevented Mr. Roosevelt from circumventing many of its mandatory provisions.

In no instance during the session was a previous grant of presidential power curtailed, even though originally bestowed under emergency conditions for limited periods. All expiring grants of discretionary authority, such as those to negotiate trade agreements or regulate the gold content of the dollar, were renewed by ample majorities. By off-stage bargaining, the relief and Interior appropriation bills were rescued from temporary majorities which sought to alter or earmark the funds requested. During consideration of the latter measure, an illustrative incident occurred. After several nugatory amendments had been voted, the leaders in charge, finding the House "not in condition to do business," and "not in as good humor as we usually are,"⁴⁹ were compelled to request the House to stand in recess until Messrs. Rayburn and Bankhead returned from the White

⁴⁸ The majority leader stated in the House: "I want to assure you that the President and all departments concerned are wholly opposed to these two paragraphs." *Record*, p. 10755.

⁴⁹ *Record*, pp. 5984-5985.

House with further instructions.⁵⁰ Were one to judge solely by Republican taunts, the conclusion would be inevitable that Mr. Roosevelt imperiously dictated all legislation.

The Constitutional Crisis. General debate prevailed during the winter of 1936-37 over methods of harmonizing New Deal legislation, approved vociferously by the voters, with the Constitution as applied by the courts. Among a wide variety of constitutional amendments seriously discussed were many proposals to delegate new substantive powers to the national government, and numerous procedural devices restricting the right of courts to invalidate legislative acts. The exponents of a revised fundamental law, nevertheless, were united only on the urgency of action and the method of formal amendment.

Mr. Roosevelt, however, after pondering both the difficulties involved in framing an amendment which would render the government adequate to modern exigencies, and the political task of securing its proposal by two-thirds of Congress, and ratification in 36 states, fell under the influence of a different gospel. It was contended by a few that the New Deal was not, or need not be, incompatible with the existing charter of government. The apparent incongruity, they alleged, was due to misinterpretation by the incumbent judges. They predicted that when "enlightened" justices ascended the bench, the conflict between Congress and the courts would subside. Most of those, moreover, who desired constitutional doctrine altered by "reinterpretation" were content to await patiently the toll of nature among the sitting "nine old men."

Mr. Roosevelt was not. He had already waited four years. In a startling move, with scant notice to his legislative coadjutors, he entreated Congress, February 5, 1937, to authorize the appointment of additional Supreme Court justices, not to exceed six, as aids to those who, having reached the age of 70 after ten years of service, failed to retire in six months. A similar provision was requested with regard to the inferior courts, where a maximum of 50 new appointments was suggested. While this was essentially an overt effort of the President to induce Congress to collaborate in getting the Supreme Court to change the Constitution, an attempt was made to camouflage the issue by worthy incidental reforms. The plan was originally presented to prevent "hardening of the judicial arteries" by encouraging retirement, to speed up justice, to obviate conflicting lower court decisions, etc. Later, after many had found this disguise too clever, the proposal was candidly defended as a short-cut method of amending the Constitution justifiable under the circumstances. If the American people were foolishly unwilling to renovate their archaic constitution by formal processes, as seemed to be true, it should be changed, as often before, by judicial decree, lest democracy perish. Con-

⁵⁰ *Ibid.*, pp. 5982-5985.

stitutional democracy could be preserved best by simply "unpacking" the Supreme Court.

The President's message resulted in an almost unprecedented public furor. Protest mass meetings were held in New England towns; bales of critical telegrams and letters were sent to Washington; acres of editorial space were devoted to condemnation. The reform was attacked by those who, antagonistic to the New Deal program, cherished the existing court as a barrier to it. Numerous friends of social legislation, however, including Senators O'Mahoney and Wheeler, bitterly opposed this device for securing its legal validation. Whereas advocates of the President's plan were compelled to defend both its objective and method, its enemies were those who deprecated either. Moreover, the opposition almost monopolized the opportunities for emotional appeal. Though technically this proposal was among the most constitutional of New Deal projects, it was roundly damned as contrary to the spirit of the law and a menace to American institutions. Mr. Roosevelt was excoriated as a ruthless dictator seeking to remove the last vestige of constitutional restraint on his imperial sway. Even more than in the previous political campaign, articulate citizens were opposed to Mr. Roosevelt.

The legislative history of the President's contrivance began when Senator Ashurst, loyal head of the Judiciary Committee, stultified himself, in repudiating his earlier demands for a constitutional amendment, to espouse the new method. Protracted hearings were conducted by his committee, a parade of 85 witnesses offering 1,500,000 words of testimony.⁵¹ After weeks of indecision, the committee acted, 10 to 8, to report the measure adversely. To the report a venomous opinion was attached flagellating the bill and its sponsor in scathing terms. This stinging rebuke to the President, their party chief, caused a reaction among some Democrats. Senator Robinson was now commissioned to salvage the wreck and endeavor to restore presidential prestige. Using persuasion, and mortgaging the patronage power, he marshalled a Senate majority for a compromise proposal⁵² which would have represented a substantial Roosevelt victory. By advancing the retirement age to 75, possible new Supreme Court appointments were reduced to four, and not all simultaneously. Moreover, a limit of 20 was placed on additional judges for the lower courts, where the age-limit remained at 70. While in the throes of the Senate fight over this measure, Mr. Robinson suddenly died. Immediate desertions dissipated the court bill majority. The President subsequently capitulated, allowing his adversaries to write the final court act, an inconsequential concession to the demand for judicial reorganization.

Such a remarkable *dénouement* to a political drama in which the Presi-

⁵¹ *Record*, p. 12016.

⁵² The amendment may be found in *ibid.*, p. 8727.

dent played a leading rôle was accomplished through a variety of subplots. Paradoxically, the President suffered such a severe defeat on the main battle front because many citizens decided that he had already won, by flank attacks, most of the strategic positions involved. If his objective was to insure the constitutionality of vital New Deal measures, it was attained. The Supreme Court validated every contested New Deal statute brought before it during the session. The Social Security Acts were approved, astonishing lawyers but quieting the fears of millions. The Wagner Labor Relations Act was found satisfactory in another unexpected decision which incidentally mollified powerful court critics. Furthermore, the incumbents demonstrated that "enlightened" new justices were not needed to "reinterpret" the constitution. By reversing themselves on the question of minimum wages for women, statutes not long previously disapproved were found constitutional.

Under the leadership of Mr. Sumners, chairman of its Committee on the Judiciary, the House enacted several minor parts of the original proposal. That this was planned to aid the defeat of the main measure was revealed by Mr. Sumners later.⁵³ The Retirement Act was offered as "bait" to sitting justices to give Mr. Roosevelt a chance to make one or more regular appointments. Mr. Justice Van Devanter acted in accord with this scheme, nicely timing his retirement to have the greatest effect on the Senate Judiciary Committee. If Mr. Roosevelt had wanted to appoint a justice of the Supreme Court, his wish was now granted. Furthermore, the existing balance in the Court made the new appointee a pivotal man. With so much net gain from his Supreme Court engagement, a further attack by the President seemed unwarrantable. There was no longer a "constitutional crisis."

For the vacancy created in June by the retirement of Associate Justice Van Devanter, the Senate almost unanimously endorsed its majority leader, Joseph T. Robinson. Democrats deemed him worthy of such a reward because of his yeoman service as party leader; Republicans, knowing his native conservatism, would have rejoiced at his elevation by Mr. Roosevelt. In this dilemma, the President chose to procrastinate. He was unwilling to "consent" to this Senate "nomination" unless several other appointments were available simultaneously. Thus Mr. Robinson obtained a personal stake in the success of the court reform compromise bill. His death left the President free to select an unmitigated liberal, preferably one whose training was largely political. Mr. Roosevelt eschewed jurists who might "shrive the constitution into a lawyer's contract."⁵⁴

In August, upon the liquidation of the court-reform fight, the President

⁵³ *Record*, pp. 9259-9265.

⁵⁴ From the President's Constitution Day speech. *New York Times*, September 18, 1937.

suddenly dispatched to the Senate the nomination of Hugo L. Black, a loyal New Dealer from Alabama. Although immediate approval, without committee reference, of the nomination of a senator to high office is customary, this time unanimous consent was lacking.⁵⁵ Only a cursory examination of Senator Black's past record was made by the Judiciary Committee, however, which, after a perfunctory hearing, recommended confirmation. On the Senate floor, the appointment was criticized because of the nominee's meager legal background, his intense partisanship, and alleged affiliation with the Ku Klux Klan.⁵⁶ Receiving assurance that he was not a member of that secret society,⁵⁷ and distrusting Senator Copeland's motive in pressing that issue, the Senate confirmed the nomination by a vote of 63 to 16.⁵⁸

In his dealing with judicial matters, Mr. Roosevelt has not displayed the political acumen shown in other fields. Furthermore, his notorious "luck" has been sadly lacking. Subsequent to his original court-reform message, he suffered a concatenation of "bad breaks." These include Senator Robinson's death, the appointment of Mrs. Graves to succeed Senator Black, and the latter's unexpected former Klan associations. When these quondam "un-American" activities were confessed in an unparalleled radio broadcast by the new Justice, the President stood convicted of carelessness in fulfilling a high responsibility.

Pressure Groups. When a large and unified minority secures Administration support, its pressure on Congress is almost irresistible. Therefore it may seem anomalous that Mr. Roosevelt has had to call a New Deal Congress into special session to perform a neglected duty toward organized labor and agriculture. The absence of positive and specific programs by these powerful minorities provides one explanation. Moreover, the court quarrel kept all other measures in the background until late in the session.

The minimum wage and maximum hours bill, though requested by the President "to extend the frontiers of social progress,"⁵⁹ did not re-

⁵⁵ Senator Johnson of California objected to immediate confirmation. *Record*, p. 11214. Mr. Ashurst declared: "It is an immemorial usage of the Senate that whenever the Executive honors this body by nominating a member thereof that nomination is confirmed without reference to a committee, for the obvious reason that no amount of investigation or consideration by a committee of the Senate could disclose any new fact or shed any new light upon the character, attainments, and ability of the nominee, because if we do not know him after long service with him, no one will ever know him." *Ibid.*

⁵⁶ Only Senator Copeland pressed this charge. *Record*, p. 11622.

⁵⁷ Senator Borah stated: "There has never been at any time one iota of evidence that Senator Black was a member of the Klan. . . . We know that Senator Black has said . . . that he was not a member of the Klan." *Record*, p. 11651.

⁵⁸ *Record*, p. 11657. This was after a motion to recommit the nomination for further study was defeated, 68 to 15. *Ibid.*, p. 11658.

⁵⁹ In message to Congress, May 24, 1937. *Record*, p. 6455.

ceive the fervid support of all labor factions.⁶⁰ Even prior to drastic modification in committee, labor leaders were hesitant in their endorsement. They were fearful that in acquiring new legal weapons in industrial relations the use of economic pressures might be restricted.⁶¹ Had the fair labor standards bill appealed to them as a panacea, it is highly probable that it would have been enacted.

The political power of organized labor, however, was regularly revealed throughout the session. John L. Lewis intervened in behalf of the revised Guffey coal bill.⁶² Letters from Mr. Green were quoted on a wide variety of subjects. Testimonials from the latter were submitted by both sides in the controversy over the sugar control bill. Mr. Inglesias, the Puerto Rican delegate, having observed the efficacy of this political technique, sought to emulate his mainland colleagues by introducing letters from the local Legion commander and Mr. Green. The latter had written: "I shall be pleased to speak to Marvin Jones and put in a good word for Puerto Rico relating to the importation of refined sugar into the United States from Puerto Rico, as you suggested in your letter dated June 25."⁶³ Furthermore, all strong minorities usually insist on record votes, so that congressmen may not escape political responsibility for their actions. At one time during Senate consideration of the wages and hours bill, there were 12 roll calls within a period of two hours.⁶⁴

With regard to agriculture, the policy of the New Deal has been to secure agreement among administrative officials and heads of farm organizations prior to congressional action. The failure to achieve a united front is responsible for the current delay. Secretary Wallace's ever-normal granary plan of crop controls has not received the unanimous benediction of agrarian leaders.⁶⁵ Pending such a consolidation of strength, Congress has made a "token payment" in voting to give the farm bill

⁶⁰ In their national conclaves in October, leaders of both rival labor organizations spoke disparagingly of the pending bill, embarrassing Rules Chairman O'Connor in his effort to get the measure before the House. *New York Times*, October 22, 1937.

⁶¹ *Vide* letter of William Green *in re* proposed Vandenburg amendments. "The amendments . . . are but a first step toward governmental control of unions—a step similar to that which led to the elimination of free trade unionism in Germany, Italy, and Russia." *Record*, p. 9997. ⁶² See letter in the *Record*, p. 2568.

⁶³ *Record*, p. 10965. Mr. Green's letter on the other side may be found in *ibid.*, p. 10701.

⁶⁴ *Record*, pp. 10266–10275. See also Senator Connally's analysis of another Green letter, p. 10251.

⁶⁵ In presenting the skeleton bill last July, Senator McGill explained: "The bill is in most of its parts a measure containing the provisions of proposed legislation recently briefly outlined in hearings before the Committee on Agriculture and Forestry by certain farm organization representatives and was worked out by them, as I am advised, in conjunction with representatives of the Department of Agriculture." *Record*, p. 9117.

priority at its next session.⁶⁶ Further evidence of the vigor of the farm bloc is found in the repassage over presidential veto of a bill extending reduced interest rates on federal land bank loans.⁶⁷

During the past session, the ex-service organizations were prominent in only one legislative victory. When the President vetoed an act renewing an expiring privilege with regard to level-premium war-risk insurance, little difficulty was experienced in mustering sufficient strength to override the veto.⁶⁸ The National Commander of the American Legion, however, in his annual report, scolded his followers for their apathy during the session. He explained: "Since 1932 we had been setting the stage for what could have been our big moment in the Congress of 1937. . . . The failure of our Universal Service Act to become a law was not due to the legislative blockade as much as to the apparent unconcern of the rank and file members of the American Legion. . . . While we rested, the opposition flooded Congress with barrage after barrage of letters, telegrams, and post cards, objecting to the passage of our bill. Time after time, your legislative representatives and I, personally, appealed for counter barrages, but apparently in vain. . . . But we have not yet been defeated, action has only been postponed."⁶⁹

The battle over the neutrality bill was conducted largely by peace societies. Those who won the support of Congress now complain that the opposition group is more influential with the President in the application of the law. The American Bar Association gave mighty aid to the congressional enemies of the President's court scheme, and, allegedly, incurred a substantial deficit in doing so. The contest over the revised food and drug bill was almost a draw, those affected directly checking the larger number of interested consumers by better organization. During the final consideration of the housing bill in the Senate, page boys were utilized to distribute "propaganda" among the senators at their desks. Senator McNary exclaimed: "This is the boldest attempt to influence legislation I have seen in 20 years in the Senate. Doubtless the responsibility lies with the organization that is opposing the limitation on the cost of housing."⁷⁰ Senator Wagner rose to defend the pages, stating: "If that was improper, I take the full responsibility for it, and do not desire to have employees blamed. Perhaps I was wrong, but I thought that any kind of enlightenment on the subject we were considering was perfectly proper, and I suggested that the senators be given this particular information."⁷¹

⁶⁶ Senate Joint Resolution 207. *Record*, 12140.

⁶⁷ *Record*, pp. 8439-8443, 9553-9566.

⁶⁸ *Record*, pp. 3466, 6722-6728, 6741-6747.

⁶⁹ Report of Commander Colmery to annual convention of the American Legion. *New York Times*, September 20, 1937.

⁷⁰ *Record*, p. 10635.

⁷¹ *Ibid.*

The lobby receiving most unfavorable publicity during the session was that maintained by domestic sugar refiners. Despite characterization by the President as "the most pernicious lobby I have ever seen,"⁷² it triumphed in Congress. In signing the measure after adjournment, Mr. Roosevelt explained: "The sole difficulty relates to a little group of seaboard refiners who, unfortunately, for many years were able to join forces with domestic producers in the maintenance of a continuing and powerful lobby in the National Capitol and elsewhere. . . . I am approving the bill with what amounts to a gentleman's agreement that the unholy alliance between the cane and beet growers, on the one hand, and the seaboard refining monopoly, on the other, has been terminated by the growers. That means that hereafter the refiners lobby should expect no help from the domestic growers."⁷³

Politics. There was much evidence of politics in the 1937 session, as much as in the previous election year. Most of it, however, was personal and factional rather than bi-partisan. As in other years, Congress was used as a sounding board for personal campaigns for offices elsewhere. Representative Ellenbogen, hoping to abandon an active legislative for a judicial career, inserted in the *Record* several "extensions" suitable for future distribution. Upon becoming the Tammany candidate for the New York Democratic mayoralty nomination, Senator Copeland promptly began campaigning in the Senate. He exploited the Ku Klux issue against Mr. Black; he found "outrageous" Britain's plan to partition Palestine;⁷⁴ and to appeal to Harlem, he moved to attach an anti-lynching bill as a rider to a measure limiting to 70 cars the length of interstate trains.⁷⁵

The history of civil service legislation during a session usually sheds light on political motivations. This year the President wrote: "Please let me urge upon the Congress the desirability of placing all but policy-forming positions under the merit system."⁷⁶ In the House, a measure was given a special rule which extended the classified civil service to include all postmasters. It provided that, at the expiration of their current terms, incumbents could be reappointed for life upon passing a non-competitive examination, thus "freezing" into the service many loyal partisans. New appointments were to be made by the Postmaster-General from a list of three certified by the Civil Service Commission. By making postmasters "inferior officers" to be selected by the Postmaster-General rather than

⁷² *Ibid.*, p. 7689. See also p. 10743.

⁷³ *New York Times*, September 2, 1937.

⁷⁴ *Record*, p. 11139. ⁷⁵ *Ibid.*, p. 9807.

⁷⁶ *Ibid.*, p. 6985. The President also demanded that the merit system be extended "upward, outward, and downward to cover practically all non-policy-determining posts." *Ibid.*, p. 222.

by the President, senatorial confirmation would be obviated. The Representatives expected to "advise" the Postmaster-General which one of the three certified should be chosen.

The bill was attacked from every angle.⁷⁷ It was shown that under existing presidential ordinances the highest ranking candidate received the appointment. In the Committee of the Whole, Republicans, finding their "anti-freeze" amendments rejected, joined with Democratic spoilsmen to emasculate the measure. When a record vote was forced on final passage, however, the enervating amendments failed, and the bill was passed.⁷⁸

This measure slumbered in a Senate committee throughout the session. When Senator O'Mahoney inquired about it in August, Senator McKellar replied that he had found "only four senators who are willing to say that they would vote for a bill taking away the right of confirmation of the Senate."⁷⁹ Contending that "from time immemorial it has been regarded as a prerogative" of House members "to suggest to the Post Office Department the persons to be selected as postmasters," Mr. O'Mahoney argued that Senate confirmation was "a mere formal gesture."⁸⁰ His dissenting colleagues, however, prevented any such infringement of the "constitutional power of the Senate."

The distribution of patronage between the houses was a continual source of friction during the session. The Senate sought to safeguard the public by stipulating that all employees earning less than four or five thousand dollars yearly be appointed under the merit system, while the remainder be subject to Senate scrutiny. The House, on the other hand, insisting that application of the merit system to petty officers was unwise, demanded that senatorial politics be eliminated among the better-paying positions. This controversy can be illustrated aptly by the remarks of Senator Walsh in presenting the conference report on the housing bill. He explained: "The House removed from the measure . . . every provision relating to the civil service laws or the Classification Act. . . . This difference was one of the most bitterly fought and contested features of the bill, and the result of our deliberations was that a compromise was reached which provides that all employees whose salaries or wages are in excess of \$1,980 shall be exempt from the civil service laws. . . . They . . . resisted very strongly the provision in the bill as it passed the Senate that employees whose salaries are in excess of \$4,000 should be confirmed by the Senate. A compromise was reached providing that employees whose salaries were in excess of \$7,500 should be subject to Senate confirmation."⁸¹ . . . Behind it all, I believe, is a growing feeling that this power in the Senate tends to make those in authority consult the

⁷⁷ *Record*, pp. 623-643.

⁷⁸ *Ibid.*, p. 643, and *New York Times* for January 29, 1937.

⁷⁹ *Record*, p. 10495.

⁸⁰ *Ibid.*

⁸¹ *Ibid.*, p. 12281.

members of the Senate rather than members of the House in matters of appointments."⁸²

Although perfect party fronts were presented on no roll call during the session, the Republicans often achieved a fair degree of unanimity. Democratic whips, especially in the Senate, were infrequently able to muster 90 per cent of their huge forces for Administration measures. An old guard squad of Democratic warriors, however, believing implicitly in party loyalty, faithfully followed the President. They did not reason why; they obeyed orders. It is traditional that majority leaders in each house accept this rule of the political game. Thus Mr. Robinson bravely fought for measures which were not to his liking, and Alben Barkley, after becoming leader, voted hopelessly to sustain a presidential veto of a measure he had formerly sponsored.⁸³ This philosophy accounts for Senator Ashurst's amazing inconsistency on the question of judicial reform. Mr. Sumners, of the comparable House committee, reacted differently. Likewise Vice-President Garner, a veteran advocate of "follow the leader," is rumored to be wavering in his fealty to "the boss."

President Roosevelt endeavored to capitalize the sentiment of partisanship by making the court issue a Democratic cause. Addressing party "victory dinner" celebrants on March 4, his judicial reforms were proclaimed indispensable to the execution of Democratic campaign pledges.⁸⁴ Members of the party, however, could not be deterred from open rebellion. Furthermore, the Republicans, unanimously opposed to the court project, shrewdly declined to lead the fight lest they supply the Democrats with a rallying cry to party battle.

After internecine strife had exerted a devastating effect upon party morale, a unique plan was evolved to restore Democratic harmony. In June, the President repaired to an island in Chesapeake Bay where all male Democratic legislators were invited for an old-fashioned political picnic. Congress was adjourned so that members could attend with clear consciences. For three days, good fellowship and fraternity prevailed as Democrats joked, fished, and ate.⁸⁵ The President's "charm school," nevertheless, though it paved the way for the ill-fated court compromise, failed to achieve any enduring results.

A vital question confronting the President involves the future of the Democratic party. Controlling its machinery, he must determine its immediate destinies. It can be turned to the right or left. It can be led on fruitless crusades, or made the guardian of the status quo. Possibly even Mr. Roosevelt would like to know where he will take it.

O. R. ALTMAN.

Williams College.

⁸² *Ibid.*, p. 12283. ⁸³ *Ibid.*, pp. 9555 and 9566.

⁸⁴ *New York Times*, March 5, 1937. ⁸⁵ *Ibid.*, June 25, 26, 27, 1937.

Government Corporations and Federal Funds.* The increasing use of the government corporation in the conduct of governmental business enterprises is one of the most significant of recent trends in public administration. Indeed, the corporate device represents one answer to the charge that government is so poorly organized and so beset by red tape that public operation of economic enterprise is inevitably sluggish and inefficient. Most notably during the mobilization crisis of 1917 and the depression years following 1929, when speedy and vigorous action was needed, the federal government has relied heavily upon government corporations which could cut through red tape and "get things done."¹ Also in more normal times, however, particular enterprises somewhat isolated from regular governmental activities have been carried on in corporate form.²

The use of federal funds by these corporate agencies raises the serious problem of reconciling managerial freedom and efficiency with adequate controls, responsibility, and accountability. Without exception, the government corporations have enjoyed a measure of freedom in financial matters which differentiates them from the regular departments and establishments in the federal administrative branch. Even Federal Prison Industries, Inc., which must observe all governmental laws and regulations in matters of expenditure, and which is subject to complete audit control of the General Accounting Office, nevertheless enjoys a permanent appropriation, and consequently is freed from the necessity of annual appearances before Congress in order to secure funds. At the other extreme, such agencies as the Inland Waterways Corporation have the perennial use of their capital, freedom in expenditures from regular governmental procedures, unrestricted power to retain and utilize earnings, and complete freedom from the jurisdiction of governmental accounting and auditing officers. In between these extremes, the majority of corporations enjoy varying degrees of freedom—a freedom in some cases rather

* This subject is treated more fully in the author's forthcoming monograph on government corporations.

¹ For a full account of United States experience with the wartime corporations, see H. A. Van Dorn, *Government-Owned Corporations* (1926). A list of the more important "recovery" corporations would include: Reconstruction Finance Corporation, Tennessee Valley Authority, Home Owners' Loan Corporation, Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, Commodity Credit Corporation, Electric Home and Farm Authority, Export-Import Banks, Federal Subsistence Homesteads Corporation, Federal Surplus Commodities Corporation, R.F.C. Mortgage Company, Federal Farm Mortgage Corporation, Tennessee Valley Associated Cooperatives, Federal Prison Industries, Inc., and the banks for cooperatives and production credit corporations within the Farm Credit Administration structure.

² For example, the Panama Railroad Company, the federal land banks, the federal intermediate credit banks, and the Inland Waterways Corporation.

clearly outlined in the statutes, in others the subject of differing interpretations and even dispute.³ For example, the Commodity Credit Corporation is expressly authorized to utilize its earnings in operation;⁴ the Electric Home and Farm Authority has asserted and acted upon a similar power, in the absence of statutory provisions and in opposition to the contention of the Comptroller-General.⁵

The primary reason for extending to government corporations a large measure of financial freedom has to do with the nature of the activity which is undertaken. With but few exceptions, the corporate device has been utilized in the conduct of business undertakings of a character ordinarily associated with private enterprise, rather than in the administration of functions more clearly "governmental." Thus, the majority of federal corporations have been directly engaged in banking and credit activities; others have operated transportation services in particular localities; still others have engaged in such business undertakings as the purchase and distribution of foodstuffs, the production and sale of hydro-electric power, and the construction and maintenance of housing facilities. These functions are of a dynamic nature which demands different treatment from that afforded routine governmental activities. Hence, it has been realized that regardless of the value of general restrictions and regulations for controlling the financial transactions of the relatively stable old-line departments, the successful entry of the government into commercial and competitive fields demands flexibility and an absence of red-tape in administration. This flexibility might have been achieved in several ways. There is undoubtedly much truth in the following statement of Mr. Louis B. Wehle: "To a great extent, the phenomenal growth of the government-controlled business corporation in America could have been avoided, if an early distinction could have been made between the static regulatory function and the dynamic business function, and if there could have been lent to the performance of the business function

³ The T.V.A. and the Merchant Fleet Corporation particularly have become involved in serious disagreement with the Comptroller-General over the proper interpretation of statutory provisions relating to the manner of expenditures, the utilization of earnings, and the nature of the audit required. However, the financial powers of corporations created by executive officers under general statutory authorization to create necessary "agencies" are even more uncertain. Comptroller-General McCarl in effect destroyed the Public Works Emergency Housing Corporation by refusing to sign a warrant transferring funds to that agency. (Decision of January 11, 1934.)

⁴ 49 Stat. 4.

⁵ Mr. McCarl's contention that the E.H.F.A. earnings must be covered into the Treasury and withdrawn only on accountable warrants is contained in an unpublished letter of December 14, 1935. A similar dispute with the Export-Import Banks was settled when Congress expressly sanctioned the position taken by corporation officials (49 Stat. 4).

by departmental officers a reasonable freedom from abstractly sound, yet antiquated, restrictions upon their procedure."⁶

However, the answer of Congress to the need for flexibility in commercial enterprises has been the government corporation. The case of the Federal Barge Lines is an excellent illustration. From 1920 until 1924, this war-time heritage was operated under the Inland and Coastwise Waterways Service, an agency dependent upon annual congressional appropriations and subject to the regular governmental purchasing and auditing procedures. The results were discouraging, and particularly did the helplessness of the Service in the face of emergencies requiring immediate but unforeseen expenditures prompt officials to make an urgent request that Congress remedy the situation.⁷ As a consequence, the Inland Waterways Corporation was created in 1924 as an agency which could effectively test the economics of water transportation by operating the Federal Barge Lines in competition with the railroads and other carriers. Conducted along the lines of a private business, with ample funds and freedom from governmental restrictions, the I. W. C. has been very successful in contrast to its predecessor.⁸ Business enterprises, whether private or public, in order to be successful, must be able to meet emergencies promptly, make economical purchases, undertake needed improvements, and dispense with overly-legalistic and expensive forms and procedures. The fact that government corporations have been utilized primarily in the conduct of such enterprises is thus a major element in any explanation of the freedom which they enjoy.

Another significant factor has been the need for speed in carrying on a temporary or emergency program. The urgency of the situation was frequently pointed to as justifying the large powers and the flexibility granted the war-time corporations, and action and accomplishment took precedence over cautious restrictions and controls. Unquestionably, the temporary nature of the corporations created was a factor in securing the acquiescence of many who would have viewed any such grants of freedom on a permanent basis as fraught with danger.⁹ Perhaps to a slightly lesser

⁶ Louis B. Wehle, "Government-Controlled Business Corporations in America and Europe," 10 *Tulane Law Review* (1935), p. 94.

⁷ See the convincing testimony of General [then Colonel] Ashburn, before the House Committee on Interstate and Foreign Commerce, Hearings on H. R. 6647, 68th Cong., 1st sess., 1924.

⁸ See M. E. Dimock, *Developing America's Waterways* (1935). Eloquent tribute to the relative success of the I.W.C. is the admission of an avowed opponent of government operation that a "new formula" has been found by which government can be successful in business. See Herbert Corey, "Uncle Sam Finds a Formula for Competing with the Carriers," *Public Utilities Fortnightly*, Vol. VIII, No. 7 (1931), p. 389.

⁹ For example, consider the following statement of Paul M. Warburg, vice-governor of the Federal Reserve Board, with respect to the proposed War Finance

degree, the economic emergency of the past six years has influenced Congress and the President in defining the powers of the New Deal corporations. Illustrative is the H.O.L.C., which was organized to give prompt relief to distressed home-owners on as large a scale as possible. As Congressman Boylan said in the House when opposing restrictive provisions: "The gentleman knows this is emergency legislation. The gentleman knows also that were we to wait for civil service examinations, and what not, perhaps the exigency necessitating this legislation will have passed."¹⁰ Another example is the Reconstruction Finance Corporation, which was designed as a temporary agency and empowered to give immediate relief to financing institutions caught in the depth of the depression. Speed was an important factor, and in establishing an agency which could extend relief with as little delay as possible, Congress drew upon the emergency War Finance Corporation as a model. War-time and depression experience thus indicates that government corporations created for emergency purposes have been granted extraordinary powers largely because of the urgent need for quick and untrammelled action.

There have always been those who oppose the grant of any extraordinary financial powers to governmental agencies operating in corporate form. Various reasons are brought forth, but in general the argument progresses along somewhat the following lines: public money is expended and received, and Congress has the duty of exercising control thereover; general restrictions and procedures have been developed to insure honest administration, and they should be applicable to government corporations as well as to non-corporate agencies; there is no sound reason why corporations should not be subject to the jurisdiction of Congress' central "watch-dog," the General Accounting Office; and finally, there is great danger that "freedom in financial transactions" will grow into waste, extravagance, and irresponsibility.¹¹

There can be no disputing the fact that government corporations must

Corporation: "I would like to make it as emphatic as I can that I think this is only an emergency institution for this war, and that it would be a very unfortunate thing if an institution of this kind were to be permitted to exist after the conclusion of peace, and that is one of the reasons why I think these powers are better lodged in the corporation than in the government, because the corporation automatically ceases to have power to operate, yet upon the conclusion of peace the government could go on." (Hearings before House Committee on Ways and Means, February, 1918, pp. 41-42.) ¹⁰ 77 *Congressional Record*, p. 2569.

¹¹ See James M. Beck, *Our Wonderland of Bureaucracy* (1932), p. 128; O. R. McGuire, "Government by Corporations," 14 *Va. Law Rev.* (1928), 186; cf. views of the late Mr. Buchanan, 79 *Cong. Rec.*, p. 3261, and the late Senator Schall, *ibid.*, pp. 1546 ff. Comptroller-General McCarl always deplored the fact that many government corporations were "not subject to the statutory restrictions or safeguards which experience has taught are necessary in the expenditures of public funds," and repeatedly recommended "remedial" legislation by Congress.

be held adequately responsible for their stewardship of public funds. Under our form of government, this means that they must be held responsible to Congress, either directly or indirectly, since that body is the guardian of the public treasury. In the broadest sense, congressional control is maintained through the statutory definition of the major purposes to be served by a particular corporation. Such provisions vary widely in nature and in the length of detail, but every corporation is provided with these major statutory guiding lines, and all financial operations must be governed accordingly. This is true not only of the corporations expressly created by federal statute, but also of those organized under executive order. The case of the Public Works Emergency Housing Corporation is illustrative, since the Comptroller-General and the Attorney-General concurred in ruling that the corporate powers of that agency could not legitimately exceed those necessary to carry out the public-works program as outlined by Congress in the National Industrial Recovery Act.¹²

Congressional determination of the major purposes and policies of government corporations is indisputably desirable. Within this larger framework, however, there are several alternative degrees of control. On the one hand, such detailed regulations and restrictions may be imposed in the statutes that administration is hampered and the advantages of the corporate device nullified. At the other extreme, a corporation may within its vague statutory guides enjoy complete freedom in financial transactions, and may be free from any periodic check-up by Congress or its agents, thus dangerously approaching irresponsibility. Finally, there is a large middle ground where administrative freedom may be so guided through adequate controls as best to serve the public interest. It is this latter field which needs to be outlined. Because of the great variation in organization, purposes, and activities which characterizes our federal corporations, generalization is hazardous, but in any event, the attempt to pick out some guiding considerations seems worth the effort.¹³

With regard to the supplying of capital, Congress has freed most of its corporate agencies from the necessity of annual appropriations by sub-

¹² The Comptroller-General's decision was rendered on January 11, 1934—that of the Attorney-General on February 7, 1934. Both are interesting commentaries on the creation of government corporations by executive officers.

¹³ Mr. Oliver P. Field's suggestion that Congress enact a general statute under which all federal corporations could be created calls attention to the unsatisfactory and haphazard legislative treatment of such agencies. However, one is inclined to wonder whether a statute drawn in the detail recommended by Mr. Field would not impose upon all corporations a dangerously rigid uniformity. Certainly, at the present time Congress could advance far in the development of guiding principles without danger of rigidity. See O. P. Field, "Government Corporations: A Proposal," 48 *Harvard Law Review* (March, 1935), p. 775.

scribing to an amount of capital stock varying according to the nature of the enterprise concerned. Where Congress has determined as a matter of policy the desirability of undertaking a particular business activity, and desires maximum efficiency and continuity of administrative policy in the conduct of that business, the practice of subscribing to capital stock is quite satisfactory. It leaves with Congress the determination of the amount which the government should invest in the activity, and yet has the following advantages over a system of annual appropriations: the danger of a half-completed program, curtailed by lack of funds, is minimized; the removal of uncertainty surrounding the annual supply of funds is conducive to continuity of policy and administrative efficiency; the danger of congressional interference in the details of administration, as through restrictive riders on appropriation bills, is done away with; and finally, the corporation's operations are not paralyzed for several weeks each year while laborious and detailed preparation is made for the annual appearance before congressional appropriations committees. A system of stock subscription, however, should by no means be made the cloak for uncontrolled expansion and entry into new fields of activity. The utilization of capital within the broad limitations and purposes of the incorporating statute should prevent such abuses, and capital outlays in new though related fields should require express congressional authorization. Illustrative are the periodic expansion of R. F. C. lending powers through congressional action,¹⁴ and the extension of I. W. C. activities to additional river systems.¹⁵ It is where a field of business activity can be fairly well delineated and congressional policy with respect thereto well-defined, that the corporate device, with its permanent capitalization, reaches its greatest serviceability as an administrative vehicle.

In addition to initial capitalization, many of the federal corporations have secured supplementary funds through their borrowing power.¹⁶ This is particularly true of the banking and credit corporations.¹⁷ It has been the practice of Congress to place a maximum limitation upon the borrowings of the several corporations, and this seems to be a desirable yet not too restrictive measure of control. For the most part, borrowings must be made on the corporation's own credit and security, and thus there is a

¹⁴ See *Reconstruction Finance Corporation Act, With Amendments*, currently compiled in R.F.C. offices, *passim*. ¹⁵ See Pub. No. 389, 74th Cong.

¹⁶ As an illustration, the United States Grain Corporation, in financing the purchase of the 1918 wheat crop, was able to borrow \$385,390,000 upon its own credit. See Frank M. Surface, *The Grain Trade During the World War* (1928), p. 444.

¹⁷ The occasional magnitude of these borrowings may be seen in the fact that through 1934 H.O.L.C. bonds totalling \$2,416,980,025 had been issued. *Second Annual Report of the Federal Home Loan Bank Board*, 1934, p. 87. As of September 30, 1935, notes of the R.F.C. totalling \$4,072,574,166.67 were outstanding. *Quarterly Report of R.F.C.*, September, 1935.

tangible advantage in sound condition and good management. Occasionally, however, the guaranty of corporation bonds has been resorted to by the government in order to secure needed funds on the most favorable terms.¹⁸ The sacrifice of self-reliance has been justified on the grounds of the urgency of the program concerned and the immediate need of funds. In the case of activities primarily of an emergency and relief nature, such as the work of the R.F.C. and the H.O.L.C., the justification seems sufficient, whereas in other more permanent corporate undertakings the government guaranty of borrowings is not desirable. Where large bond issues are concerned, and particularly where government guaranty is provided, Congress has often required the approval of the Secretary of the Treasury in corporation borrowings. This is done in order to secure harmony with the borrowing activities of the government itself, and such an arrangement provides a reasonable and desirable measure of control.

Experience indicates that the majority of business enterprises carried on by government corporations cannot be subjected to the general restrictions and regulations which usually surround the expenditure of public funds without seriously endangering efficiency and economy. This fact has been appreciated by Congress, and most of the corporations have been exempted in practice, although it is only in recent years that express statutory authorization has been given government corporations to "determine the manner" in which their expenses shall be incurred, allowed, and paid.¹⁹ In the conduct of a complex banking business, it is inevitable that immediate action without compliance with governmental red-tape will continually be required. Let us take an illustration from the experience of the Export-Import Bank. An American manufacturer selling goods abroad wishes to know, before submitting his bid, the terms on which the bank will finance him. A protracted delay means loss of the business. Unless the Bank can make an immediate commitment, without submitting it to the Comptroller-General for approval, such applicants cannot be given financial assistance. A huge construction program like that of the T.V.A. can be most efficiently carried on if purchases and contracts are made intelligently, without blind adherence to rigid rules regarding acceptance of the lowest bid, the drawing of lots in cases of identical bids, etc.; the engineering judgment so valuable to private construction undertakings is just as valuable when government takes upon itself similar activities.²⁰ Purchasing operations like those of the

¹⁸ Notably in the case of the R.F.C., the H.O.L.C., the Farm Mortgage Corporation, and the T.V.A.

¹⁹ R.F.C. (47 Stat. 6), Federal Deposit Insurance Corporation (48 Stat. 94), Farm Mortgage Corporation (48 Stat. 172), H.O.L.C. (48 Stat. 132), Federal Savings and Loan Insurance Corporation (49 Stat. 298).

²⁰ For a thorough exploration of this question, see Chairman Morgan's testi-

Panama Railroad Company's commissary division can be successful only if discretion and ingenuity may be exercised.²¹ Advertising for bids is quite satisfactory as the normal procedure in purchasing matters, but when as a strict requirement it prevents taking advantage of favorable market prices in particular instances, the net result is an added expense that should not be inflicted upon a business enterprise.

The importance of the purchasing problem is much greater for some of our federal corporations than it is for others. In the case of the banking and credit agencies, the purchase of office supplies and equipment is such a small part of total financial operations as to be relatively insignificant. Such purchases can be standardized and conducted under regular governmental rules without serious handicap to administrative efficiency. Purchase of standard supplies from the regular government contractors may indeed be economical, while at the same time preventing possible abuses under a more flexible arrangement. On the other hand, where government corporations are concerned with the construction, maintenance, and operation of huge physical plants or the securing of products and materials for resale in a competitive market, the purchasing problem is of vital importance to the success of the enterprise, and purchases must be made with a freedom conducive to the greatest efficiency and economy.²² The Panama Railroad Company, the Inland Waterways Corporation, and the Tennessee Valley Authority are the best present-day examples of this type of corporation. During the fiscal year 1935, commitments of the T.V.A. for purchase of construction and plant equipment, furniture and fixtures, materials, services, and supplies approximated \$25,673,378.90.²³

The overhead cost of settling small claims against a business undertaking in the regular governmental manner—that is, through adjustment and settlement in the General Accounting Office—often would extend to

mony before the House Military Affairs Committee, *Hearings on "Tennessee Valley Authority,"* 74th Cong., 1st Sess., May, 1935, pp. 557 ff.

²¹ This division annually purchases over \$5,000,000 worth of merchandise for resale to the government, the Canal, and individuals and companies within the Canal Zone. In purchasing articles for resale, the Panama Railroad Company must consider their attractiveness to its customers, and must satisfy the whims and desires of such prospective purchasers rather than the bare requirements of a specification.

²² After years of experience in the management of one of England's public enterprises, Mr. Frank Pick made the following statement:

"Private enterprise may buy whatever it pleases and on whatever terms it pleases. A public utility undertaking, being open to challenge on preferences, on favoritism, on even baser grounds, protects itself by going to tender and accepting the lowest tender, other things being equal. *Yet this is maybe the least efficient way of buying.*" (*Public Admin.*, Vol. XIII, p. 135). Italics mine.

²³ *Annual Report of the Tennessee Valley Authority*, 1935, p. 51.

many times over the amount of the claim involved. Much more economical is the practice of the T.V.A. with respect to claims arising in connection with its reservoir clearance activities. Minor damages to cultivated ground are paid for on the spot, and the delays and expense involved in adjudication by the General Accounting Office are avoided. Other corporations, such as the farm credit banks and the Commodity Credit Corporation, write off small errors where payment or collection would involve unreasonable expense. A centralized and overly-formalized procedure in such matters is an unnecessary handicap to business success.

Occasionally, as in the case of Federal Prison Industries, Inc., with its relatively small expenditures, the application of regular statutes and rules does not work a hardship. This is exceptional, however, and it is interesting to note that even Comptroller-General McCarl, the chief advocate of strict regulation in expenditures, conceded now and again that the business operations of certain government corporations cannot be carried on successfully under regular procedures.²⁴ Mr. McCarl's plea that exemption, if intended by Congress, be expressly given, is a reasonable one, and explicit provisions in the R.F.C., H.O.L.C., and Federal Savings and Loan Insurance Corporation Acts are a marked improvement over earlier exemptions which, though apparently intended, were only implied.

One outstanding characteristic of most government corporations has been the sale of goods or services from which the receipts and earnings have comprised an essential part of the expendable funds. In contrast to receipts of the regular departments and establishments, corporation earnings have with few exceptions been available for operating expenses, capital improvements, and the building up of reserves and surpluses. The immediate deposit of earnings in the federal treasury as miscellaneous receipts has seldom been required. Sometimes the retention of earnings is expressly authorized in the statutes; sometimes the excess over operating expenses is committed to a particular use such as the building up of reserves; frequently, the right to retain and utilize earnings has been asserted as an implied corporate power.

There are several advantages, as Congress has recognized, in the availability of earnings for further use in the particular enterprise from which they arise. In the first place, such a system goes a long way toward making a successful corporation self-sufficient and beyond the need for further appropriations; the large majority of federal corporations meet their operating expenses from their own proceeds. Secondly, the in-

²⁴ See, for example, *Annual Report of the Comptroller-General*, 1932, p. 15. While making this concession in theory, the Comptroller-General continued to disallow expenditures which a reasonable application of the theory would seem to justify. See *infra*, note 36.

centive to keep operating expenses well within earnings and still show a surplus is a valuable aid to efficient operation. Corporation officials, whether in private or public fields, undoubtedly take pride in a commendable financial record, and strive to maintain and better previous standards. The Panama Railroad Company, with its enviable record, is a case in point.²⁵ In the third place, serious capital impairments may be prevented, and needed replacements and improvements may be made. For the banking and credit agencies, it is essential to maintain unimpaired capital and to build up reserves and surpluses with which to meet unexpected losses from loan transactions. If earnings may be retained for these purposes, the business position of the corporations is greatly strengthened. In the case of the F.C.A. corporations, earnings above operating expenses are required by law to be applied to the restoration of impairment, if any, of capital and paid-in surplus.²⁶ On the other hand, the Panama Railroad Company, the Inland Waterways Corporation, the Tennessee Valley Authority, and other such corporate enterprises which involve the maintenance and operation of large physical plants have a problem not shared by the banking agencies—namely, that of making needed replacements and improvements in physical plant and equipment. Reserves for depreciation must be accumulated, and such factors as increased business, technological advances, and competition will from time to time demand outlays for new property and equipment if the enterprise is to be progressively conducted. The Panama Railroad Company, for example, has been able to increase its capital assets from approximately \$11,000,000 in 1904 to \$34,600,660.12 in 1935 through the employment of part of the company's earnings for the purchase of rolling stock and equipment and the improvement of property.²⁷ Congressional sanction of the use of earnings for such purposes is very desirable. Finally, the use of earnings normally insures the availability of operating capital for meeting emergencies and unforeseen contingencies without expensive delays. One of the greatest blows to the Inland and Coastwise Waterways Service resulted from its inability to meet a serious emergency caused by an unprecedented drop in the river level in 1922. Much business was lost as a result of the fear of shippers that the service would be discontinued.²⁸ Such an eventuality would have been impossible if the Inland Waterways Corporation, with its power to retain earnings and build up reserves, had been in existence.

Empowering government corporations to retain and utilize earnings does not mean that the government is deprived of any ultimate profits

²⁵ See M. E. Dimock, *Government Operated Enterprises in the Panama Canal Zone* (1934). ²⁶ See, for example, 48 Stat. 259, 263.

²⁷ *Annual Report of the Panama Railroad Company, 1935*, p. 6.

²⁸ See Van Dorn, *op. cit.*, p. 220.

which may accrue. Thus, temporary agencies such as the war-time corporations or the R.F.C. have been required to turn over all assets upon liquidation, and rightly so. In the case of the more permanent corporations, provision may well be made for the return of any excess profits to the federal treasury—witness the annual dividends of the Panama Railroad Company.²⁹ However, profits such as those made by the P.R.C. are exceptional, and in operations such as the extension of credit, in which the policy of the government is to keep interest rates as low as possible while covering expenses, the question will not arise.

The problem which has been least satisfactorily settled in so far as our government corporations are concerned is that of providing suitable methods of accounting and auditing control. Some corporations are entirely free from any form of governmental audit, and the only periodic check-up of their financial transactions is that made in the annual audit conducted by private accountants. Others are subjected to all of the regular governmental procedures, and must submit complete accounts and supporting papers for a continuous audit by the General Accounting Office. The majority, however, have been on a middle ground which is often poorly defined, with the result that auditing matters become the subject of debates and frequently bitter disputes with the governmental accounting officers. Neither of the two extremes seems to secure the proper responsibility in the use of public funds together with the flexibility needed for efficient administration. However, while the ideal solution lies somewhere in between, it should be possible to define the procedure in such a way as to eliminate much of the uncertainty and bickering which have so frequently appeared in the past.

The subjection of all government corporations to the "auditing" control of the General Accounting Office as that agency is now constituted would be a serious mistake. The President's Committee on Administrative Management has quite rightly pointed out that the Comptroller-General's present function of allowing or disallowing current expenditures by governmental agencies results in inefficient administration, and is properly a function which should be lodged in the Treasury, i.e., within the administration itself.³⁰ In the conduct of a business enterprise, where flexible management is essential, detailed and legalistic expenditure control by an outside agency is *a fortiori* unsatisfactory. The advantages of the corporate device will best be preserved by retaining the comptrolling function within the corporation itself.

The question of auditing is quite different. The exercise of external

²⁹ The annual dividend to the government is 10 per cent, and the total paid into the treasury since 1904 is over \$12,000,000.

³⁰ *Report of the President's Committee on Administrative Management* (January, 1937), pp. 20 ff.

control through some system of periodic examination and post-audit of the accounts of government corporations should properly be in the hands of an independent governmental auditing agency. Neither the legalistic and formalistic emphasis of the General Accounting Office nor the employee-accuracy-and-honesty emphasis of the private auditing firm meets the need. Much good might be accomplished if the audit could be more than a financial or fidelity audit, if it could be a service or efficiency audit, by an agency having the power thoroughly to investigate operations and to make recommendations to Congress as to efficiency as well as honesty in administration. The work of the farm credit examiners, as they tend more and more toward efficiency audits, is a case in point; and T.V.A. Chairman Morgan's suggestion that the Comptroller-General furnish competent engineers at the Authority's expense to go over T.V.A. work, "to keep track of it, in any field that he wants to explore, to see whether it has a good honest tone to it, to see whether anything ought to be looked into further,"³¹ is somewhat along the same lines.

The best solution to the problem of providing our federal corporations with an external audit is contingent upon a redefinition of the functions of the General Accounting Office along the lines recommended by the President's Committee.³² Once this office became a real post-auditing agency, a particular division should have the specialized duty of auditing, thoroughly investigating, and making reports upon the financial operations of governmental business corporations. The personnel of such a division would have opportunity to become thoroughly familiar with, and hence more sympathetic toward, the aims and activities of the various corporations. The difference in nature between business enterprise and routine governmental activity should be clearly taken into account, and the audit governed accordingly.³³ Comparisons and constructive suggestions could be made, yet no interference in administration would be possible.

Short of this desirable change in the status of the General Accounting Office, other solutions must be found. Congress should, in the first place, clarify the relationship between corporations and the Comptroller-General. There should be no occasion for disputes such as that which has arisen in the case of the Tennessee Valley Authority over the "audit" required by statute. In such instances, it should be made clear whether Congress intends a complete submission of accounts and schedules, as Mr. McCarl maintained, or a post-audit in the corporation offices, as

³¹ *Hearings before House Military Affairs Committee*, May, 1935, p. 574.

³² *Report* (January, 1937), p. 23.

³³ For the differences between private or business auditing and the ordinary governmental audit, see D. H. Smith, *The General Accounting Office*, Service Monograph, Institute for Government Research (1927), p. 111.

contended by T.V.A. officials. If the Comptroller-General is to be given the power of auditing the accounts of government corporations, the least that can be done is to define clearly the nature of that audit.⁴⁴ A provision such as that in the amended T.V.A. act⁴⁵ to the effect that the corporation shall have opportunity to examine and answer the exceptions contained in such an audit before the report is made to Congress may well be included.

Where a number of related corporations are grouped together under an overhead organization such as the Farm Credit Administration, a satisfactory independent audit of individual corporation transactions can be made by the central agency. Such an arrangement makes unnecessary the regular controls usually applied to transactions of governmental agencies, and hence the subsidiary corporations should be entirely free from any direct control or audit by the General Accounting Office. The experience of the F.C.A. seems to offer encouragement to the further extension of the scheme. The central agency is sufficiently distinct from the subsidiary corporations to insure an independent examination of individual corporation transactions; and yet through familiarity and sympathy with the major objectives of the group as a whole it may lend to its examinations a reasonableness and sense of perspective which is greatly to be desired. Opportunity for improvement through comparison of the individual corporations is afforded, and an audit becomes a preliminary step to better and more efficient methods as well as a check on honesty in administration. Control of financial transactions may be made effective without imposing an administrative strait-jacket upon the operating units.

A final possibility is to free individual corporations from any control or audit by the General Accounting Office, as has been done in the case of the Panama Railroad Company, the Inland Waterways Corporation, and the Reconstruction Finance Corporation. Where the decision lies between this type of freedom, on the one hand, and complete General

⁴⁴ In the case of the Fleet Corporation, the fact that the statutory mandate was for the Comptroller-General to make an audit "in accordance with the usual methods of steamship or corporation accounting" apparently had little effect, and the corporation officials rightly complained that Mr. McCarl's audit was conducted along regular governmental lines, and with his usual approach. For example, exception was taken to such transactions as the following: compromise settlement of claims against the corporation when it had not been proved that "the action could be sustained at law"; expenditures for insurance on property in spite of the "long established policy of the Government not to carry insurance"; purchases of automobiles for use of corporation officials; and payment of premiums on fidelity bonds required of corporation employees. These practices, all quite common and legitimate for a private corporation, were nevertheless condemned by Mr. McCarl as being illegal for a governmental agency. See House Doc. 111, 71st. Cong., and House Doc. 217, 72d Cong.

⁴⁵ 49 Stat. 1081.

Accounting Office control as ordinarily exercised on the other, there are strong arguments in favor of the former. Where this choice is made, however, statutory provision should be made for periodic audits by reputable private firms as well as for financial reports by the corporations themselves. The Inland Waterways Corporation Act, which makes no mention of any audit or report whatsoever, goes to an unsatisfactory extreme.³⁶ In providing for the periodic audit, Congress might well place the selection of the private firm in the hands of some executive official or agency which is not directly responsible for the management of corporation activities.

The government corporation is primarily an administrative device, and is so designed. It reaches maximum administrative efficiency when granted a large measure of freedom in management and in financial matters. If it is used for partisan purposes or is otherwise mismanaged, its very virtues become vices. Desirable financial freedom becomes the shield of favoritism and corruption. Fortunately, the experience of the federal government with its corporate agencies is reassuring on this point. Corporation officials must and can be chosen for their ability and integrity without any reference to partisan or political considerations. The entire divorce of the Tennessee Valley Authority from spoils practices is only one of the encouraging signs in recent corporate developments. In the last analysis, the selection of public spirited and expert men to direct the operations of our government corporations is the real safeguard of the public interest, and when this is accomplished, the freedom conducive to progressive administration can profitably be granted.

JOHN McDIARMID.

Princeton University.

Federal Administration of Rural Electrification. *Origin.* The Rural Electrification Administration began as one of the "temporary" and "emergency" units in Roosevelt's collection of alphabetical agencies under executive order 7037 of May 11, 1935. The expressed purpose of the President was to promote the generation, transmission, and distribution of electricity in rural areas. Morris L. Cooke, noted management engineer who had served as a member of the Power Authority of New York when Roosevelt was governor, was chosen administrator. Money for loans to coöperatives, public bodies, and private companies was made available from relief funds, with the stipulation that borrowers must use at least 90 per cent relief labor in construction work. All money was to be repaid; no part of the federal funds was to be used for grants or subsidies.

³⁶ 43 Stat. 380. It should be noted that in practice the I.W.C. makes annual reports to the Secretary of War and has its accounts audited once each year by certified public accountants.

Advocates of rural electrification favored greater permanence for R.E.A. than could be given under the Emergency Relief Act of 1935, which authorized the executive order mentioned above. Senator Norris and Representative Rayburn introduced bills which resulted in the Norris-Rayburn Act of May 20, 1936, establishing the R.E.A. on a ten-year basis. Lending procedures were laid down in some detail, but organization and employment policies were among the many matters over which the administrator was granted broad discretionary authority. When Mr. Cooke took office in 1935, he was faced with three problems: (1) assembling and organizing a staff, (2) determining loan policies, and (3) making loans.

1. *Assembling and Organizing a Staff.* The executive order of May 11, 1935, set no restraints as to the number, salaries, or qualifications of employees, who could be chosen on any basis agreeable to the administrator. The claim is made for the organization that it has not expanded rapidly, and that merit has been the guiding principle in selecting employees. Whether this defense is strictly valid or not, the records of the Civil Service Commission indicate that the present staff cannot keep up with its work, as shown by the many hours of unpaid overtime recorded each month. When the Norris-Rayburn bill was under discussion in Congress, there was some debate on the method to be used in choosing employees, but nothing mandatory was inserted in the act. There was, instead, an innocuous statement to the effect that appointments and promotions should be made on the basis of efficiency, with a warning to the administrator that partisanship would be considered cause for his removal. The President issued an executive order (7458), September 26, 1936, bringing R.E.A. into the classified service, but allowing persons previously appointed to acquire civil service status by means of non-competitive tests. Lawyers, engineers, and "experts" were exempt from the operation of the order, and at present these comprise about 50 per cent of the staff. At first the staff was small and simply organized, but as the volume of work increased new divisions and sections were added. On December 31, 1935, personnel numbered 222, a year later it was 407, and on February 28, 1937, the total was 416. At the last-mentioned date, the organization comprised five divisions (engineering, legal, management and finance, utilization and research, projects development), responsible to the administrator and his deputy; these five divisions were further divided into 20 sections. Although lawyers and engineers are frequently sent out from Washington to give advice and assistance to groups which desire R.E.A. loans, there are no field offices or field employees.

2. *Determining Loan Policies.* The act of 1936 allows 25 years as a maximum term for construction loans, and stipulates further that the interest on any loan shall be the same as the average paid by the govern-

ment on its long term bonds during the "last preceding fiscal year in which any such obligations were issued." The R.E.A. was faced with laws, commission rulings, and court decisions varying from state to state. As an administrative problem, loan policy-making involved the setting up of forms and procedures which would be substantially uniform, would protect the government's equity, and yet would fit in with state laws and adjudications. R.E.A. has no coercive power over private utilities or state regulatory boards; it cannot fix wholesale or retail rates for power; nor can it set aside territory for exclusive R.E.A. line construction. The only means it has of insuring that loans are safely made, and that borrowers are protected from the encroachment of private utilities upon their choicest territory, is through its authority to fix the terms of loans. No money is actually advanced until R.E.A. is assured of (a) a self-liquidating project, (b) coöperation, or at least non-interference, of the state regulatory commission, (c) exclusive rights for the borrower over the territory claimed, and (d) a source of wholesale power at reasonable rates. The determination of these points necessitates a careful study of all the legal and engineering factors of each individual request for a loan. While it has been found that certain legal and economic problems recur frequently, and can be met with uniform procedures, the immensity of the territory covered, plus a wide range of local variables, makes constant research a necessity. Loan policies, therefore, are not rigidly fixed.

3. *Making Loans.* An effective educational and publicity campaign has been carried on from Washington in order to reach all rural groups in need of electricity. The division of utilization and research is divided into five sections: utilization, research and statistics, reporting, information, and exhibits. Attractive illustrated leaflets have been issued depicting the opportunities and needs in the field of rural electrification, and comparing the United States with other countries to our discredit. Frequently, reprinted pictorial statistics show the United States at the bottom of the list in extending the benefits of electricity to farms, but it seems evident that the figures on which they are based are incomplete, estimated, or at best non-comparable. Other leaflets outline procedural requirements for the benefit of prospective borrowers, and an attractive handbook, *Electricity on the Farm*, may be purchased from the Superintendent of Public Documents. From time to time, a project development map is issued; it gives a somewhat exaggerated picture of the situation because of the way in which projects are depicted. For bringing "current" developments before the rural population, use has been made also of mimeographed press releases, pictorial, graphic, and electrified exhibits, radio talks, and the interesting R.E.A. magazine, *Rural Electrification News*. These various media for catching the attention of the rural dweller have doubtless proved effective in stimulating requests for loans.

After several months spent in collecting a staff, setting up an organization, studying legal and economic problems, outlining procedure, and educating the public to the possibilities offered by the government, R.E.A. made its first allotments on August 22, 1935. Construction work was not well under way, however, until the following spring.

Large numbers of applications are constantly being received, investigated, and given preliminary allotments if the projects are deemed practicable and have reputable backers. The next step is to negotiate loan contracts satisfactory to both parties and complying with state laws. The amount of the loan is paid to the borrower in installments, the final payment usually following completion of all construction.

Rural electrification has made rapid progress in the United States since 1935, due in part to the loans of R.E.A. and in part to the haste with which private companies have extended their lines to prevent government financed coöperatives from entering the field. Tables in the *First Annual Report of R.E.A.* (January 20, 1937) show that from its inception (May 11, 1935) to the end of 1936 R.E.A. allocated \$43,737,779 for 218 construction loans, with 28 of these projects partly or wholly energized. The report bears evidence of being prepared hastily to fulfill the statutory requirement of annual reporting, for its seven mimeographed pages of text and a considerable number of pages of tables contain little to enlighten. There is a record of loans and allotments, together with copies of the executive orders and the act of 1936, but no explanation of procedure, organization, personnel, administrative costs, or other pertinent data. There is not a picture or a graph; certainly, no charge of lavish expenditure for propaganda can be levied against this report—indeed, its very drabness repels critical attention.

Rural electrification with federal funds is too new a venture, too little investigated, and too sketchily reported to enable conclusive or valid opinions as to its worth or future to be formed. One may quite safely venture the guess that so long as there are vast unelectrified rural areas in the country some form of governmental aid will be perpetuated—rural congressmen will see to that. If a Department of Conservation is established, R.E.A. might become one of its bureaus. Mr. Cooke is thought to favor a transfer of this nature, and he is being mentioned as the presidential choice for first Secretary of Conservation. On February 15, 1937, he resigned as administrator of R.E.A., and went on a vacation of indeterminate length.

Significant Aspects of R.E.A. as an Administrative Unit. It may be doubted whether political scientists are alarmed at centralization unless it leaves the public unguarded and helpless before tyrannical rulers; in fact, they have frequently indicated their belief in the beneficial as well as the "inevitable" character of centralization; it may be the only way

of keeping governmental machinery operating in a highly complex industrial society. Beard and many others have pointed out that centralization has for years been taking power away from our local governments in favor of the states, from the states in favor of the federal government, and from legislatures in general in favor of chief executives. Nor is the incursion of government into business a new development. The current economic crisis may have served to speed up these processes; of itself, it did not give birth to them.

R.E.A. is so small that it is relatively unimportant as an administrative unit. It displays, however, many of the characteristics of "centralization" and "government in business" which in their local and their world-wide manifestations please some and alarm others.

(1) The R.E.A. increases executive power. Like many another New Deal creation, R.E.A. was set up as a temporary, emergency agency. The executive order authorized by the broad grant of powers given Roosevelt in the Emergency Relief Act of 1935 was not subject to scrutiny in committee or on the floor of Congress. The President delegated almost complete (dictatorial?) administrative authority to the administrator, whom he chose without senatorial confirmation. The unit and its initial policies thus got a start with no legislative interference—no restraints were imposed upon the selection of employees, nor was there any check on administrative expenses, or on loan policies. Funds were derived from a huge appropriation of 1935 which was under presidential control.

Once an agency is under way, performing a service which appeals to thousands of citizens and hence to their congressmen, with no visible expense to the taxpayers except the indefinite costs of administration, with a group of employees desirous of maintaining their positions, and finally, with favorable public opinion fostered in part through a skilful publicity unit, it is not a long or difficult transition to relative permanence under an act of Congress. It is easy and convenient to accept the unit as organized and functioning, assuming that it is efficient and indispensable. Entirely independent of any other agency or old-line department, R.E.A. was continued with practically the same broad powers as given by the President in his executive order, except that the administrator was to be appointed for a definite term of 10 years with senatorial confirmation, available loan funds were fixed at a maximum of 410 millions for ten years, and loan terms were partially laid down. Administrative expenses, the number of employees and their compensation and selection, and for all practical purposes the determination of loan policies—these were delegated by Congress to the administrator.

(2) R.E.A. reduces state authority. Through control over loans, R.E.A. may influence retail and wholesale power rates and thus diminish the regulatory authority of the states acting through their legislatures and

utility commissions. Likewise, through stipulations as to the type of construction acceptable, a similar result may ensue. These apparently innocent incursions may be far-reaching in their ramifications.

(3) R.E.A. affects private business. To date, there have been no defaults on loan repayments; eventually there are bound to be some failures, resulting in loss of federal funds unless the government can sell the acquired property to cover the unpaid balance. Should the government be unable or unwilling to sell, it would then be operating transmission lines, and perhaps generating plants as well. R.E.A. has not settled on any policy to meet this situation, but its enemies profess to see a dark plot to extend public ownership, while at the same time certain liberals or radicals belabor R.E.A. for not having taken a stand in favor of public ownership (see Paul Ward's editorial in *The Nation* for March 27, 1937). Should lines be sacrificed to the private utilities, either by the borrowers or by the government, private business would be receiving an indirect subsidy, getting the lines and the established business at a bargain price.

Direct benefits to private enterprise accrue from line-building. Manufacturers of wire and parts, and makers of electrical equipment, benefit directly; the power companies also gain, since they sell power at wholesale without expensive line-construction costs.

The borrowers receive the benefits of federal payment of administrative costs, low interest rates, and free aid and advice of an engineering and legal nature; they are able thus to build lines more cheaply than the utilities, and are under no compulsion to create dividends for stock- and

R.E.A. PROJECT LOANS AS OF DECEMBER 31, 1936,
BY TYPE OF BORROWING ORGANIZATION

Type of Borrower	Contracts		Amount		Miles		Customers	
	Number	Per Cent	Amount	Per Cent	Number	Per Cent	Number	Per Cent
Private-non-profit, or Limited Profit	11	10.09	\$2,415,000	10.04	2,101.	9.39	8,118	9.73
Private	10	9.17	798,287	3.30	791.52	3.54	3,615	4.33
Municipal	7	6.42	1,395,058	6.63	1,468.15	6.56	4,040	4.84
Coöperative	80	73.40	18,899,476	77.77	17,502.80	78.23	65,496	78.55
Public	1	.92	542,328	2.26	511.	2.28	2,128	2.55
Total	109	100.00	\$24,045,129	100.00	22,873.97	100.00	83,397	100.00

bond-holders. Competition extends in occasional instances to the generation of power. Private companies may borrow from R.E.A. only after preference has been given to other types of applicants. The accompanying table shows that 109 loan contracts were executed to December 31, 1936, of which only 10 were to private companies. The government is thus furthering the coöperative movement through R.E.A. loans, and dealing a direct blow at private business.

E. F. Dow.

University of Maine.

Mr. Justice Black and "Senatorial Courtesy." On August 12, President Roosevelt nominated Senator Hugo L. Black of Alabama to be an Associate Justice of the United States Supreme Court. On receipt of the message, Senator Ashurst moved for its immediate consideration on the ground that "whenever the Executive honors this body by nominating a member thereof, that nomination is confirmed without reference to a committee, for the obvious reason that no amount of investigation or consideration by a committee of the Senate could disclose any new fact or shed any new light upon the character, attainments, and ability of the nominee, because if we do not know him after long service with him, no one will ever know him."¹

So far as Senators Johnson and Burke were concerned, this appeal fell on deaf ears, and the nomination was accordingly referred to the Judiciary Committee. A sub-committee, headed by Senator Neeley, held a brief session, reported the nomination favorably to the full committee, and the latter, on August 16, voted to endorse the nominee. Before the matter was brought up on the floor, however, the opposition to Senator Black fell back to a second line of procedural defence. In brief, the failure of the Committee to hold public hearings on the nomination was condemned as a departure from accepted practice.² Both committee reference, and of course public hearings by the committee, would have been foreclosed had Senator Ashurst's argument prevailed, and this fact lends renewed interest to the subject of senatorial courtesy.

In its narrowest and most exact sense, "senatorial courtesy" requires that the body of senators be guided in its action on a nomination by the attitude of the senators from the state immediately affected by such nomination. It is clear that this is not the meaning of senatorial courtesy in the present case. The Senate was not being asked to demonstrate its confidence in the judgment of certain of its own members as to the qualifications of a third party. Nevertheless, it is not amiss to observe that senatorial courtesy in this narrow sense has little application to Supreme Court appointments. It is quite true that assignment of the justices to circuits did, at one time, entail a custom of choosing them from such circuits. And along with this localization of appointments went the custom of consulting the appropriate senators. But, long before actual circuit-riding had become a thing of the past, this custom had given way to a more catholic mode of selection. Warren recounts that Jefferson polled all the members of Congress from the states affected by the crea-

¹ *Congressional Record*, 75th Congress, 1st Session, p. 11214.

² E.g., by Senator Bridges, *op. cit.*, p. 11491. It may be observed, in passing, that the practice of holding public hearings is decidedly not one of long standing, whatever may be said for its merits. See K. C. Cole, "The Role of the Senate in the Confirmation of Judicial Nominations," in this *REVIEW*, Vol. 28, pp. 875-894, at p. 877.

tion of a new judgeship before sending a name to the Senate.³ On the other hand, when the Senate was considering the nomination of Judge Parker, Senator Overman pointed out that the 4th Circuit had not been represented on the Bench "since the days of Iredell and Moore."⁴ The conception of the Supreme Court as a source of patronage is no longer part of our unwritten constitution. Senatorial courtesy does not, then, in its text-book sense, apply to the Supreme Court. What is the other sort of senatorial courtesy which justified Senator Ashurst's reference to an "immemorial usage" of the Senate requiring instant confirmation of a nomination to the Supreme Court without reference to committee?

With the exception of the two previous cases in which a sitting member of the Senate has been honored by such an appointment, it has certainly been the custom to refer these nominations to committee,⁵ and of course the standing rules of the Senate today clearly contemplate reference in all cases.⁶ It is further interesting to observe that in all seven cases in which ex-senators have been nominated,⁷ committee consideration has preceded action by the Senate. In three instances, there was an adverse committee report,⁸ and in one case⁹ a favorable report was recommitted and authority to send for books and papers given to the committee.

It appears plainly enough from the foregoing that the Senate has been quite as rigorous in its procedure when dealing with the nominations of recent colleagues as it has in dealing with nominations generally. And it is also reasonable to suppose that the Senate was, on the whole, as well informed as to the capacities of such recent colleagues as if they had continued to sit in that august body.

When we come, then, to the procedure to be followed in dealing with nominees drawn from the sitting membership of the Senate, there would seem to be no *prima facie* case for senatorial courtesy. But Senator

³ *The Supreme Court in United States History* (Boston, 1928), Vol. 1, pp. 299-300. As it happened, the high man in this poll was ineligible because he was a member of the Congress which had created the post.

⁴ *Congressional Record*, 71st Congress, 2nd Session, p. 7808.

⁵ There have been some exceptions. The nomination of Henry Baldwin (confirmed January 4, 1830, by a vote of 41 to 2) was not referred to committee. And in the course of debate on the nomination of John J. Crittenden (which was referred to committee), on December 17, 1828, it was protested that it had never been the custom to refer any judicial nominations to committee. See *Congressional Debates*, Vol. 5, pp. 90-93.

⁶ Senate Document 150, 72nd Congress, 2nd Session (1932), p. 43.

⁷ John J. Crittenden of Kentucky in 1828; John McKinley of Alabama in 1837; George H. Williams of Oregon in 1873; Stanley Mathews of Ohio in 1887; Roscoe Conkling of New York in 1882; and Lucius Lamar of Mississippi in 1887.

⁸ John J. Crittenden (postponement), Stanley Mathews, Lucius Lamar.

⁹ That of George H. Williams. See *Journal of Executive Proceedings of the U. S. Senate*, Vol. 19, p. 189.

Ashurst says there is an immemorial usage to this effect. As a matter of fact, if we confine the inquiry to Supreme Court appointments, it would be hard to find any usage on this point at all. The nomination of Senator Edward Douglass White to the Court was indeed confirmed by something like acclamation,¹⁰ but in the only other instance in which the Senate has been so honored, the candidate was defeated after bitter debate by a vote of 26 to 25.¹¹

Nor are the circumstances attending Senator Black's own nomination likely to strengthen the case for a display of senatorial courtesy. Without reflecting at all on the legal capacity of the recently inducted member of the Court, it is none the less true that facts which certain senators regarded as highly relevant to their action upon his nomination were not brought out in the Senate debate.¹²

Perhaps it is naïve to assume that senators were as completely ignorant of the facts as they professed to be. But in this case the argument for open public hearings is considerably stronger. Hearings in this situation would not be merely for the information of the Senate. They might also have the effect of publicizing certain facts and thus making it politically dangerous for the Senate to ignore them. All in all, the events subsequent to the confirmation of Justice Black's nomination suggest that, not only committee reference, but committee hearings, should be in order in the case of all Supreme Court nominations.

KENNETH C. COLE.

University of Washington.

¹⁰ Professional opinion, while not opposed to White, was hardly in sympathy with the Senate procedure employed, in view of the fact that the Senate had just rejected the nominations of William B. Hornblower and Wheeler H. Peckham, both of whom were highly esteemed at the bar. See *American Law Review*, Vol. 28, pp. 274-276.

¹¹ The nomination of George E. Badger of North Carolina by President Fillmore on January 1, 1853. See Warren, *op. cit.*, Vol. 2, pp. 242-244.

¹² For example, Senator Borah, who said definitely that he would vote against a member of the Ku Klux Klan for any position, but who deprecated investigation because of senatorial courtesy. *Congressional Record*, 75th Congress, 1st Session, p. 11652.

MUNICIPAL AFFAIRS

EDITED BY WILLIAM ANDERSON

University of Minnesota

Municipal Government and Labor Disputes. As a means of settling labor disputes, strikes benefit no element in the community. Their financial costs to workers, industry, capital, consumers, government, and society cannot be accurately totaled but may be amply demonstrated.¹ Strikes are costly not only in terms of money, but also because they prejudice just and intelligent solutions of the essential issues of wages, working conditions, and industrial control. Solutions which are compelled by violence or coercion are adequate only by unlikely coincidence.

American governments on all levels are assuming responsibility for so regulating labor disputes that violence and strikes shall become unnecessary factors in their negotiation. Governments are recognizing the urgent necessity of discovering alternative, less costly, and more peaceable methods of negotiating fair shares of industrial income and control of industrial policy. There is widespread interest in the rôle of the national government through such agencies as the conciliation service of the Department of Labor and the National Labor Relations Board and in the rôle of the states through "baby Wagner acts" which have been passed in such states as Wisconsin, Pennsylvania, Utah, Massachusetts, and New York. Municipal governments are contributing to the newer techniques being evolved in the field of labor relations, not only through local labor relations boards which are emerging in a few communities, but also through new, or at least modified, techniques of control both before strikes break out and during their actual duration.

Urgent problems confront American city government when labor and capital sharpen their economic and political weapons for conflict on the industrial front. The basic problem of preserving "law and order" has traditionally characterized labor disputes, but changes in labor organization and strike techniques have altered the face of the problem. The problem of the city, which is concerned with maintaining fair and equitable labor relations, is not simplified by the fact that both labor and capital are organized on a national scale as never before and in the case of some industrial conflicts are quite beyond the scope of effective control by a single city government.

The one best remedy for strikes is their prevention—a responsibility which rests primarily not on local government but on employer, labor, and state and national governments. Local government can contribute

¹ For a collation of isolated data on the cost of strikes, see Lyman S. Moore, "Maintaining Industrial Peace," in *The City's Role in Strikes* (International City Managers' Association, 1937), pp. 23-24.

in a minor way to the establishment of fair labor relations, which are the best preventive of strikes, in its capacity as a model employer and by its influence on local industry through business and industrial associations; but the influence of the individual city is significant primarily where industries are purely local in character. Where industry is inter-municipal or interstate, its labor relations are almost completely beyond the scope of one city's isolated efforts. The city can also in a preliminary way diminish the chances of violence by providing conditions of free speech which will furnish a peaceable outlet for strong emotions and conflicting opinions. The maintenance of free speech and other civil liberties is considered by the philosopher as a worthy ideal in itself, but opportunity for all elements to be heard is being recognized by the intelligent police chief and city administrator also as a tactic of expediency.²

The influence of city governments on industrial relations is sharpened when a dispute is imminent or breaks out, and it is the city's direct relation to actual disputes that is of primary interest. Here the city government has the three-fold objective of providing a medium for the intelligent and peaceful negotiation of disputes, maintaining law and order in the event that a strike breaks out, and preserving at all times an attitude of "neutrality" in its relations to all parties concerned.

The city must assume its share of governmental responsibility for providing effective machinery for the negotiation of disputes. Industrial peace cannot be justified merely on the ground of preserving the status quo if this involves also the maintenance of unfair labor relations, and labor organizations which have no other tool at their command in the struggle with organized capital for a better livelihood and a more influential voice in industrial management cannot be too harshly condemned if they resort to the coercion of the strike. As yet, municipal governments have only begun to scratch this problem with the formation of industrial peace boards in Toledo, Philadelphia, Newark, and New York.

The pioneer of these boards was the Toledo Peace Board, initiated in the summer of 1935 at the suggestion of Edward F. McGrady, then assistant secretary of the United States Department of Labor. The membership consisted of 18 citizens, 5 nominated by the central labor union, 5 named by the local chamber of commerce, and 8 selected by Mr. McGrady. The representatives at large included two judges, two attorneys, a Catholic monsignor, a Jewish rabbi, a merchant, and the county relief director.

During the first eight months of its existence, the Board was entirely

² For a more extended discussion of the preliminary contributions which municipal government can make to industrial peace, see Donald C. Stone, "The Public Interest in Labor Disputes," in *The City's Role in Strikes* (International City Managers' Association, 1937), pp. 5-9.

a voluntary agency and had no relation to the municipal government. On March 30, 1936, however, the city of Toledo assumed responsibility for the financing of the Board under an ordinance which permits the mayor to fill any vacancies. Members of the Board serve without compensation, but a full-time director is employed.³ The Board was authorized to expend not more than \$7,250 during 1937.

The principles that have been announced as governing the action of the Toledo Peace Board are as follows: (1) Members of the Board should never vote on the question of an issue being right or wrong, but should strive to find that which is fair and suggest it to the parties in dispute; they may accept or reject. (2) Members cannot and should not order anyone to do anything. The mere fact that a union or employer can lose nothing through dealing with the Board will make for greater confidence in and coöperation with the Board. (3) Services of the Board are always conciliatory, and arbitration never should be undertaken by any member, or even the director, though both parties may agree to it. Even if the Board should arbitrate fairly at all times, confidence in it would be lost in some quarters. (4) The Board cannot promote organization of employees, nor can it interfere with such organization activities.⁴ During its brief history, then, the Board has served merely as a conciliatory agency and has been the means of bringing about peaceful negotiation through the efforts of its director and its members. In July, 1936, it was reported that "since the Peace Board became effective, no labor situation has developed to anything like the extent of ugliness which characterized the earlier labor troubles in the Toledo area. Only one difficulty has developed into a strike of any stubbornness. In that case, while both parties were somewhat reluctant at first to throw their cards on the table before Peace Board representatives, those representatives had a major part in the settlement."⁵

It appears that the Toledo Peace Board has secured prestige and position for itself in the community, as far as the public, newspapers, labor, and management are concerned. In no case has it attempted to coerce either party to a dispute, but its position is such that when it publicizes its willingness to serve as negotiator, this constitutes legitimate pressure on the parties, because of public feeling on the question. The mere knowledge that conciliatory machinery exists and is quietly at work tends to allay public excitement and to minimize the crisis of a dispute. The very existence of the Board also serves as a restraining influence on both em-

³ *Ordinance of City of Toledo Providing for the Continuation of the Toledo Industrial Peace Board, etc.*

⁴ Edmund Ruffin, "The Toledo Industrial Peace Board," *Toledo City Journal*, Feb. 6, 1937.

⁵ Carlton W. Matson, "Toledo's Plan to End Strikes," *Nation's Business*, July 1936.

ployer and labor. Employers who ask for police protection during a strike come before the city administration with unclean hands if they have not made every reasonable effort to utilize the good offices of the Board, while an intransigent labor organization must run the gauntlet of public opinion if it finally determines to strike without giving fair consideration to the Board's proposals.

The Mayor's Labor Board in Philadelphia has followed the Toledo plan in its general features, but has adopted the procedure of referring disputes in the first instance to a panel of two, one representing labor and one industry.⁶ This technique, followed by the Philadelphia Regional Labor Board of the first National Labor Board, was first recognized by Lloyd K. Garrison as having psychological advantages. He has pointed out, in support of this procedure, that a representative of each side will be more apt to reach an agreement to which both can subscribe because "there is no neutral or public representative present before whom they might be tempted to serve merely as advocates for the respective disputants."⁷ Experience with the two-man panel is by no means conclusive, but it tends to confirm this psychological conjecture.

No local labor board yet established has been specifically authorized to arbitrate. The Toledo Board has expressly eschewed this function as tending to impair its usefulness. An indication that the Newark Board, unappointed at the time this note was written, may in the future perform arbitration duties is negatively implied in the stipulation of its ordinance that "the Board shall not function as an arbitration body without the consent of accredited representatives of both sides."⁸

A plan proposed by Dr. Charles A. Prosser of Minneapolis, which promises to receive a wide hearing, carries formal conciliation machinery a step farther by providing what may be termed "suspensory" mediation. Employer and employee organizations under this plan would agree in advance to call neither strike nor lockout until a conference and the mediation services of the local board have been refused by the other party.⁹

A next and final step beyond this proposal is to provide compulsory arbitration, which, until the Supreme Court speaks to the contrary, is regarded as unconstitutional.¹⁰

⁶ Letter from M. Herbert Syme, counsel assigned by the mayor to act as the executive officer of the Board.

⁷ For complete discussion of this technique, see Garrison, "New Techniques in Labor Settlements," in *Survey Graphic*, April, 1935, pp. 164 and 198.

⁸ Section 5 (c) of "An Ordinance to Establish a Labor Relations Board for the City of Newark," passed in the spring of 1937.

⁹ For a fuller outline of this plan, see Charles A. Prosser, "A Plan for Adjusting Labor Disputes," in *Public Management*, Vol. XIX, no. 6 (June, 1937), pp. 163-164.

¹⁰ The leading case deciding against the state's right to require employers and workmen to submit to compulsory arbitration is *Wolff Packing Co. v. Court of In-*

The local labor relations board is, of course, no conclusive solution of labor difficulties. At best, it can be only supplementary to state and national mediation and arbitration bodies and will prove most useful where the dispute is entirely localized. The mediation efforts of local officials can prove of minor utility, however, even in a dispute of interstate proportions, as demonstrated by a city manager's ability to mediate the evacuation of "sit-down" strikers pending final negotiation of the automobile strike early in 1937.¹¹ Just as the local labor relations board is not adequate in cases of disputes which transcend city boundaries, so should it not be considered a substitute for regular intra-plant grievance machinery to handle complaints of individual workmen. Outsiders cannot be expected to spend valuable time in handling routine shop cases of this type.

The establishment of a board which will be clearly recognized by all to represent the community interest is no easy task. The question of representation also becomes difficult when labor, which merits no more than an equal voice with capital on the board, finds itself split in bitter conflict between two or more vigorously competing groups.

When a strike breaks out, it is, as one writer puts it, "no strawberry festival." Local officials are immediately asked to deputize special police paid either by industry or by the city. Many city officials have rightly refused to clothe with public authority persons employed by either party to the dispute, although if violence and law violation are imminent, there can be no legitimate objection to augmenting temporarily the police force with city-paid deputies. Wise public policy, however, will decree that these deputies be local men who are well known to the strikers rather than "gunmen" from the outside, who are always under suspicion. To quote one city manager, "I would rather take my chances on preserving order with three local policemen whom strikers have known and trusted for years, than with a hundred deputies imported from outside, who by their very lack of acquaintance will be more apt to incite than to quell violence."

When a strike breaks out, whether of the "walk-out" or "sit-down" variety, local government's primary purpose is to prevent the outbreak of violent warfare without prejudicing the position of either side to the dispute. The difficulties which beset the police who attempt to keep a picket line "peaceful" in the face of attempts on the part of industry to operate the plant have long been recognized, but only recently has there been concerted effort on the part of police chiefs so to train their forces that mass

dustrial Relations, 262 U.S. 522. This decision, however, does not apply to businesses which the court may find to be "clothed with the public interest."

¹¹ Cf. Henry Traxler, "I Went Through a Strike," in *The City's Role in Strikes* (International City Managers' Association, 1937), pp. 14-18.

action can be peacefully controlled. Limitation of picketing by ordinance is being tried as a means of permitting strikers to exercise peaceful persuasion without the dangers which always attend mass congregation of men intent on fighting to preserve their economic interests. An example of an attempt to provide a police force with a sound statement of policy incorporated in a police manual is the set of regulations issued by Police Commissioner Lewis J. Valentine of New York City. Among other things, these regulations recognize the legality of peaceful picketing and of a "peaceful, orderly strike," discourage the employment of "professional bullies and thugs by either side," limit the number of pickets in the discretion of the commissioner, and require full reports on all incidents of the strike from the police officer in charge.¹² Many cities are recognizing that to give full effect to regulations of this type requires careful training to which police forces normally are not subject, even in the wave of training schools that have appeared in all parts of the country. Police officers are therefore being required to read literature on labor relations and to receive training in when and when not to use firearms, tear-gas, and other mob-quelling weapons. That such training is by no means widespread is evidenced by the tragic failure of Chicago's police in the Memorial Day (1937) encounter with strikers, which resulted in ten strikers being killed and many police and workmen injured. This encounter may be called a "riot" if one is sympathetic with the employer, or a "massacre" if one leans towards the strikers; but the casualty list bears mute but frightful testimony to police failure to prevent violence in one form or the other.¹³

When police control is clearly inadequate for the purpose, local officials must turn to state enforcement agencies. Where there is a clash of economic opinion between mayor and governor, this may sometimes lead to unexpected results. Thus when the mayor of Johnstown, Pennsylvania, decided that the state militia was needed to "protect the right to work," he found the state governor willing to supply the troops, but in the first instance for the purpose of closing the plant in order to avoid violence instead of supporting the company's determination to keep the plant open.¹⁴ Despite these incidental conflicts of opinion as to what constitutes "law and order," it is clear that the governor's authority is superior and the interest of the state which he represents paramount to a decision of a local official, particularly where the use of the state militia is involved.

Consideration has been given in at least two cities to an ordinance that

¹² *Manual of Procedure of New York Police Department*, Art. XXXII, pp. 211-212.

¹³ For a vivid description of this encounter taken from newareels, see *St. Louis Post-Dispatch*, June 16, 1937.

¹⁴ Cf. *New York Times*, June 20 and 21, 1937.

would permit the mayor or chief of police, whenever a refusal by an employer to bargain collectively "causes the assemblage of two hundred or more persons within an area of one-half acre on the streets adjacent to the plant," to declare the further operation of the plant a "public danger" and a "public nuisance." The mayor is authorized by this ordinance to appoint a committee representative of labor, employers, and the clergy to make advisory findings on the question of whether there has been a refusal to bargain collectively and whether such a refusal constitutes a public danger. If the mayor or police chief determines that a public danger exists according to this definition, he is authorized to close the plant.¹⁵ This ordinance was passed by the Milwaukee city council in 1935, but the machinery was never put into action. In fact, it was made so important an issue in a subsequent city election that the ordinance was repealed on June 22, 1936. A similar ordinance was proposed and defeated in Cincinnati in 1936.

The "sit-down" strike has injected problems of its own. The sit-down strike splits the supposedly unitary objective of preserving "law and order," and police who are obliged by court order to evict strikers who are both embattled and entrenched have to choose between enforcing the law and provoking violence by their own act or maintaining order at the expense of law enforcement. The choice is often not a free one, as the latter alternative may constitute contempt of court. Judges who are asked to issue eviction orders sometimes forget that law enforcement and public order are not always identical.¹⁶

The city has an interest in the sit-down strike from the standpoint of health and welfare as well as law enforcement. Factories are not equipped as dwellings and may fall under the ban of the building code if used for that purpose, either by strikers or by employers who are seeking to house loyal workers in an attempt to operate the plant without running the picket line. During the steel strike, Chicago's mayor threatened to evict the steel company's workers because of violation of the building code and health ordinances, but the company apparently met the official complaint by housing the workers in Pullman cars.¹⁷

¹⁵ *An Ordinance to Create Sections 1036.1 to 1036.8, Inclusive, of the Milwaukee Code of 1914*, passed September 30, 1935.

¹⁶ Early in 1937 occurred two excellent examples of this choice. During the strike of the Fansteel Metallurgical Corporation in North Chicago, Illinois, the sheriff's forces of Lake county chose to enforce a court order and ejected sit-down strikers by violent use of tear-gas and an ingenious tower. During the General Motors strike in Flint, Michigan, however, city police postponed giving effect to a similar court order until the sit-downers withdrew voluntarily as a result of an agreement reached in Detroit. For a general discussion of the police problems raised by the sit-down strike, cf. Arnold Miles, "What a Strike Means to a Police Department," in *The City's Role in Strikes* (International City Managers' Association, 1937), pp. 10-13.

¹⁷ Cf. *New York Times*, June 5 and 8, 1937.

The city is not altogether unconcerned with strikes among its own employees, despite the general tendency on the part of all groups to accept Governor Calvin Coolidge's dictum following the Boston police strike of 1919 that "there is no right to strike against the public safety by anybody, anywhere, at any time." Adverse publicity following the strike of Boston police put a quietus on unionization of police, and although firemen are affiliated with the American Federation of Labor through the International Association of Firefighters, the constitution of the latter organization expressly forbids strikes. This prohibition is taken seriously and was given concrete effect late in 1936 by the expulsion of a Canadian local which had voted on a proposal to strike.¹⁸ More recently, however, Chicago budget-makers have been confronted by a union of electrical workers which has conducted a demonstration strike tying up the city's bridge communications and throwing city streets into darkness as a means of compelling restoration of pay-cuts.¹⁹ The finance committee of the city council was later threatened with a repetition of this procedure and was placed in an awkward position by the competing demands of a street workers' union opposing the diversion of gas-tax funds, which appeared to be the only available method of making the pay restoration.²⁰ Proponents of sound budgets will quickly recognize the damage that can be done by rival pressure groups of this type within the city hall. However, municipal administrators must recognize the necessity in the future for dealing with employees on an organized basis. The American Federation of State, County, and Municipal Employees is already established as an A. F. of L. affiliate, and a parallel organization affiliated with the C.I.O. has been organized as the state, county, and Municipal Workers of America. A C.I.O. affiliate has already entered the national field under the name of the United Federal Workers of America, where it will compete for the allegiance of federal employees with the A. F. of L.'s American Federation of Government Employees and the non-affiliated National Federation of Federal Employees.

One of the principal demands upon local authorities is that they remain neutral in an economic controversy. As one city manager says, "[during a strike] I find that men do not think straight. Their jobs, their business, and their future are at stake, and the problem presents so many dire possibilities that the ability to try calmly to reason the thing out evaporates. During such a time, the 'hot heads' must be controlled, all fantastic

¹⁸ See George J. Richardson, "Labor Unions in Fire Departments," in *Public Management*, Vol. XIX, no. 1 (January, 1937), pp. 6-9. The best comprehensive discussion of the unionization of public employees, which contains a strong argument in support of the right to strike, is Sterling D. Spero, "Employer and Employee in the Public Service," in *Problems of the American Public Service* (McGraw-Hill, 1935).

¹⁹ *Chicago Daily News*, Jan. 23, 1937.

²⁰ Cf. issues of *Chicago Daily News* for several days following June 22, 1937.

schemes discarded, and above all, the controversy must not be constantly excited by pressure groups. We went through a strike and did it peaceably, I believe, because we used common sense and were willing at all times to talk matters over with all groups; because we insisted that the present governmental machinery would function during a crisis as well as during normal times; because we believed that the men involved could be shown that after their difficulties had been ironed out they all would have to work together again and that during the controversial period the observance of law, order, and good sportsmanship would make such working together possible."²¹

Some will deny that a "neutral" attitude is possible, and will contend that the direction of politics and public administration is determined by economic interest and sympathy. The workingman often believes that all who are not "for" him are necessarily against him, or conversely, the employer is certain that a police force which does not go the limit in "protecting property" is controlled by anarchists. In such a situation, the symbols of the dispute become interchangeable. The employer's "loyal workman" is the striker's "scab." The employer's "identity of property and human rights" becomes the striker's subordination of his right to his job to profits and capital.²² If the public official is analytical, he may conclude that it is impossible to maintain harmonious peace in the midst of a conflict which is real and not apparent, but this conclusion should not sway him from his purpose of maintaining fair conditions for the fight as an inducement to industrial peace. His task is not made easier by lack of definite interpretations of such important concepts as "collective bargaining," "signed contracts," and "union responsibility." These concepts await the definitions which come from administrative practice as well as from legislative enactment and court decisions.

The public administrator who seeks in the public interest to steer between capital and labor is beset on all sides. It may, indeed, be the criterion of his success to be equally damned by both. A cool head, an abiding sense of responsibility for preserving the public interest, and a determination to approach the ideal of reducing violence to the vanishing point are what a community should expect of its hard-pressed municipal officials.

LYMAN S. MOORE.

International City Managers' Association.

The Present Status of Municipal Housing and Slum Clearance in the United States. Housing has at last come into its own. Not housing for

²¹ Henry Traxler, *op. cit.*, pp. 17-18.

²² For brief statements of what various interest groups expect of a city government during a strike, see *The City's Role in Strikes*, pp. 3-4.

its own sake, but housing as a means of "increasing employment quickly," was the avowed purpose of the housing provisions of the three acts under which the national government's low-rental housing program has to date been carried forward.¹

The United States Housing Act of 1937,² popularly known as the Wagner-Steagall Act, provides primarily for "financial assistance to the states and political subdivisions thereof for the elimination of unsafe and insanitary housing conditions and for the development of decent, safe, and sanitary dwellings for families of low income." Reduction of unemployment and the stimulation of business activity are important but secondary objectives.

The significance of this shift in emphasis extends beyond the mere fact of the government's belated recognition of its moral responsibility to assume leadership for improving the housing conditions of the underprivileged. While housing was regarded only as a means to an end and not as an end in itself, the building program suffered. Funds were uncertain and were frequently diverted to what seemed more immediate means of achieving the emergency end in view. Moreover, long-time planning with its many economies and other advantages was quite impossible.

The creation of a United States Housing Authority, a body corporate of perpetual duration and singleness of purpose to administer a federal program of assistance to low-rental housing, is therefore an event of some moment. It puts housing for the poor on an equal footing, so far as assurance of the federal government's continued interest is concerned, with housing for those who can afford to own their homes or pay an economic rent.

While low-rent housing has thus been freed of its "relief" shackles, it is still tied to slum clearance—how seriously depends upon administrative interpretation. An amendment affixed by Congress to the original form of the bill requires that "the project" must include the demolition, effective closing, or compulsory repair and improvement of unsafe and insanitary dwellings substantially equal in number to the units to be constructed. It is, of course, highly desirable that communities establish and maintain minimum housing standards and that they eliminate as rapidly as possible structures that fall below. It is most undesirable that the effort to accomplish this should in any way obstruct the provision of new dwellings.

The possible dangers of a slum clearance restriction are exorbitant land

¹ The Emergency Relief and Reconstruction Act of 1932, Public No. 302, 72nd Congress; the National Industrial Recovery Act of 1933, Public No. 67, 73rd Congress; and the Emergency Relief and Appropriation Act of 1935, Public Resolution No. 11, 74th Congress. ² Public No. 412, 75th Congress.

costs and a prohibitive shortage of dwellings during the construction period. Fortunately, the second of these has been obviated by a clause authorizing the Authority to permit deferment of the elimination of unfit buildings under conditions of shortage "so acute as to force dangerous overcrowding" of families of low income. Unless the requirement that the project shall include demolition, etc., can be interpreted liberally to include any such undertaking by a local governmental agency anywhere in a community, it would seem that for the present the "shortage" clause offers the only escape from the necessity of building on slum land purchased at speculative prices. There is no doubt that in most communities serious shortages in low-rental property do exist and are daily becoming more acute.

The third big handicap of the housing program during the past five years—centralized control of an undertaking peculiarly subject to local conditions, and therefore unsuited to central control—has definitely been put to an end by the United States Housing Act of 1937. Centralized control was in the first place brought about through circumstances rather than by legislative necessity.

When, in the summer of 1933, Congress authorized loans and grants to states, municipalities, and other public bodies for slum clearance and low-cost housing, only two cities in the country, Los Angeles³ and Milwaukee,⁴ were prepared under existing laws and ordinances to take advantage of the offer. Ten states during the next two years passed housing authority laws, but at the end of 1935, when the last of the projects developed by the P.W.A. entered the construction phase, only a third of the cities with projects had housing authorities. The authorities were, moreover, for the most part new and inexperienced.

Today 30 states,⁵ the District of Columbia, Hawaii, and Puerto Rico have housing-authority legislation. Forty-nine authorities have been established under these laws, and a good many have gained considerable experience through coöperation with the federal government in the development of its "demonstration" projects. Under the Wagner-Steagall Act, it is mandatory that the projects already built be leased or sold to the local authorities "as soon as practicable" and that all future projects be developed by them.

With local responsibility for the development and management of

³ Article 25, Los Angeles City Charter.

⁴ Laws of Wisconsin, 1913, Ch. 678; Wisconsin Laws of 1933, Ch. 479; Ordinance 139 of City of Milwaukee.

⁵ Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, West Virginia, and Wisconsin.

housing has come the requirement that the states or communities share in the cost. This injects a new element of uncertainty into the program. It is unquestionably desirable in principle that the localities share the cost of providing adequate housing accommodations for their citizens. Some observers believe, however, that the local units of government are not at present in a position to do so and that the whole program will be jeopardized by this provision. Time will tell. Meanwhile other competent observers point out that upon analysis the requirements seem fairly lenient and entail no more local contribution than has been made to existing projects.

A local authority may borrow from the United States Housing Authority up to 90 per cent of the funds necessary to develop a project. The other 10 per cent will have to be found elsewhere, provided the local authority wishes to obtain, in addition, the federal subsidy without which low-rental housing would be impossible. Since the federal government may accept less than first mortgage security, borrowing 10 per cent locally should not be too difficult.

There is, however, another condition for federal subsidy. The states or communities must themselves supply a 20 per cent capital grant or 20 per cent of the annual contributions provided by the Act,⁶ depending upon the form of subsidy they elect to receive from the federal government.

Annual contributions will undoubtedly be much the easier for states or localities to provide. Since these may be made in the form of tax remissions or exemptions instead of in cash, they should not prove a serious obstacle, at least to large communities. If a community should elect to make a 20 per cent capital grant, it may do so in the form of cash, land, or the capitalized value of community facilities, tax remissions, or tax exemptions.

To carry out the provisions of the Act, Congress has authorized appropriations of \$26,000,000 for the fiscal year ending June 30, 1938, and bond issues over a three-year period of \$500,000,000 from the proceeds of the bonds, the subsidies paid from appropriations.

In order to insure low rents and low income tenancy, a five-to-one income rent ratio (six-to-one in the case of large families) was written into the act, and various restrictions were placed upon construction costs: (a) projects may "not be of elaborate or expensive design or materials"; (b) the average construction cost per dwelling unit may not exceed the average cost of units privately produced in the same locality under building laws applicable to the housing project and under similar labor

⁶ The wording is ambiguous and may mean either 20 per cent of the annual grant made by the federal government or 20 per cent of the total grant by both federal and local governments.

standards; (c) in cities under 500,000, the cost may not exceed \$4,000 per unit or \$1,000 per room, and in larger cities \$5,000 per unit or \$1,250 per room.

Although not serious enough to prevent building, the definite limitation on construction costs and the income of tenants would better not have been written into law. Both are matters in which a high degree of flexibility would seem desirable to meet highly variable conditions in various parts of the country. Moreover, the rent a family pays bears no mathematical relationship to its other needs, and if very low rentals were achieved the formula would automatically reduce the maximum income permitted to a point where a family, after paying its rent, would have insufficient income to live on. Finally, the Authority has adequate powers to insure the low-rent character of projects without such a provision. These include the right, upon breach of agreement to maintain low rents, to raise the interest rate on loans, to declare the unpaid principle due at once, or to terminate annual contributions.

The decentralized program which will be carried out under the United States Housing Authority starts with a considerable heritage from the five-year emergency program despite the difficulties encountered in its administration. P.W.A. has developed 51 projects in 36 cities, comprising about 21,500 dwelling units.⁷ These will be turned over to the new Authority for sale or lease to state or local housing authorities. After sale, they will be eligible for loans, grants, or annual contributions under the terms of the United States Housing Act. The 60 community type projects comprising 8,104 dwelling units now held by the Resettlement Administration, many of which were started and partially developed by the now defunct Subsistence Homesteads Division of the Department of the Interior and by the F.E.R.A., may also by presidential decree be turned over to the United States Housing Authority.

These projects have provided vastly improved living conditions for thousands of low, if not the lowest, income families. Perhaps more important, they have been the chief means of educating the people of this country to the need for public housing. Opponents of the program have sought to discredit it by insisting that the projects do not demonstrate anything. They have at least demonstrated to the satisfaction of organized labor that public housing is worth working for and not a mere idea toward which it could afford to continue, as in the beginning, to be lukewarm or indifferent.

Every bit as important to the future of housing as the demonstration projects and their educational by-product has been the building of a foundation of law and judicial precedent upon which may be reared a sound decentralized administrative structure.

⁷ Exclusive of limited-dividend projects.

P.W.A. assumed leadership in securing most of the 30 state housing authority laws mentioned above, together with supplementary legislation permitting cities to coöperate with housing authorities in essential ways. Model bills were drafted, submitted to the governors of the various states, and introduced into most of the legislatures by executive request. The models were from time to time revised, and the states themselves made changes. There is, nevertheless, a fairly high degree of uniformity in state housing legislation. All the authority laws provide for the creation of special *ad hoc* bodies with power to construct and operate housing projects and to finance them through bonds secured by their property or the revenue from it. All stipulate that these bonds shall not constitute an indebtedness of the local governments. The application of the laws in all except three states⁸ is fairly general, and in a number they apply to counties as well as to towns and cities. New Jersey has a state authority, as does Maryland, although recently a new law was passed in Maryland providing for city, town, and county authorities as well.

The need for an authority is usually determined by the local governing body, with or without public hearing, and appointment of members is usually by the mayor or other chief executive. All except a few of the laws provide for five members with five-year staggered terms. In two-thirds of the states, jurisdiction extends several miles beyond city limits.

All states except one grant housing authorities the right of eminent domain, while Rhode Island provides that cities may condemn for authorities. Twenty states⁹ exempt the property of housing authorities from taxation, and nineteen¹⁰ exempt their securities. In addition, property is exempt in Kentucky by court decision,¹¹ and in Ohio by opinion of the attorney-general.¹² Thirteen states have adopted the "five times" income rent ratio first fixed by the George-Healy amendment¹³ to the National Industrial Recovery Act. They include no special provision for large families as does the United States Housing Act. Pennsylvania has a straight "six times" income-rent ratio, and New Jersey sets a minimum rental of \$10 a room for first-class cities and \$8 a room for others.

⁸ The Michigan law applies only to Detroit; the Texas law only to San Antonio; the Wisconsin law only to Milwaukee.

⁹ Arkansas, Colorado, Connecticut, Florida, Georgia, Indiana, Louisiana, Maryland, Nebraska, New York (at discretion of municipality), North Carolina, North Dakota, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, and West Virginia.

¹⁰ Colorado, Connecticut, Indiana, Kentucky, Louisiana, Maryland, Michigan, Nebraska, New York, North Carolina, North Dakota, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, and West Virginia.

¹¹ *Spahn et al v. Stewart et al*, decided by court of appeals of Kentucky, Feb. 19, 1937.

¹² Opinion 3262, John W. Bricker.

¹³ Public No. 837, 74th Congress.

Sixteen states¹⁴ have passed special housing coöperation laws permitting cities to sell, lease, or donate property to authorities; to furnish parks, playgrounds, and other facilities; and to re-zone or re-plan as necessary. In all except three of these states,¹⁵ cities may also waive local building code requirements in taking over from the federal government projects not in compliance with technicalities deemed unsuited to large-scale housing. Twenty states¹⁶ authorize cities or other localities to donate or loan money to authorities for administrative expenses, and two states, New Jersey and Delaware, themselves assume the responsibility for authority finances. Some states¹⁷ have incorporated certain provisions for coöperation by communities in their authority laws instead of passing supplementary legislation.

In 10 states,¹⁸ authorities are subject to some control or supervision by state boards. Unless additional state boards are created, the federal financing agency, the United States Housing Authority, will exercise the only supervision and control over the authorities in the other states. Obviously, both the state and federal governments should not exercise identical supervision.

There are now several important court decisions upholding the validity of the provisions of housing authority legislation. In the first application by a state or local housing authority for the exercise of eminent domain, a state court of highest jurisdiction, the New York court of appeals,¹⁹ on March 17, 1936, upheld housing as a public use for which land might be taken by the duly constituted creatures of the state. The proceedings grew out of the New York City Housing Authority's effort to acquire property for First Houses, a small rehabilitation project which has the distinction of being the first public housing project completed in recent years and the first, and so far only, project for which a local authority has floated its own bonds. The decision was widely heralded as establishing an important precedent.

About a year later, the Kentucky court of appeals,²⁰ the highest court of that state, handed down the most comprehensive decision dealing with public housing that has so far been rendered. The case was brought to

¹⁴ Alabama, Colorado, Florida, Georgia, Illinois, Indiana, Maryland, Michigan, Montana, Nebraska, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, and Texas.

¹⁵ Alabama, Montana, and North Carolina.

¹⁶ Arkansas, Connecticut, Florida, Maryland, Michigan, Nebraska, New York, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, and Vermont provide for donations and loans; Indiana and Massachusetts, for appropriations only; and Delaware, Illinois, South Carolina, Texas, and West Virginia, for loans only.

¹⁷ Arkansas, New York, South Carolina, and Vermont.

¹⁸ Arkansas, Delaware, Georgia, Illinois, Indiana, Massachusetts, New York, Ohio, Pennsylvania, and South Carolina.

¹⁹ *New York City Housing Authority v. Muller*, 1936, 270 N.Y. 333, 1 N.E. (2d) 153.

²⁰ *Spahn et al v. Stewart*, cit. *supra*.

test the constitutionality of the law under which the Louisville Housing Commission had been created, and nearly all the major legal issues relating to housing authorities were raised in the pleadings and passed upon by the court.

The Municipal Housing Commission Act was declared constitutional and the court held: (1) that the proposed slum clearance and housing project was for a public and governmental purpose, and that land could therefore be condemned by the Commission for the project; (2) that the property and bonds of a municipal housing commission are issued for a public purpose, and therefore are exempt from taxation under the constitution and statutes of Kentucky; (3) that the Commission might issue special obligation bonds secured by the project and revenue from it, and that such bonds would not constitute obligations of the state or any political division thereof; (4) that the provision of housing for persons of low income is not class legislation, but will benefit the whole community; and (5) that the city of Louisville has the right to appropriate money for the administrative and other expenses of the Municipal Housing Commission.

A third important legal victory was won in May of this year when the United States district court for the District of Columbia upheld the power of the Alley Dwelling Authority for the District of Columbia to acquire property for slum reclamation. The Alley Dwelling Authority, which exists primarily to rid Washington of its inhabited alleys, differs from other housing authorities in that the provision of dwellings for families displaced by slum clearance is an activity secondary to the clearance operation itself. This case²¹ tested the power of the Authority to acquire sites by condemnation as a part of its regular program. The question involved was related to, but distinct from, that of whether the provision of low-rent housing is a public use.

Prior to these favorable decisions on the right of the states to use eminent domain for housing, several lower courts decided adversely the question of housing as a federal use for which the federal government might condemn property. These decisions are, of course, less important than the favorable ones, now that it is definitely settled that the housing program of the future will be carried out on a decentralized basis, and that the federal government will not be acquiring real property. No case involving housing as a public use, by either state or federal agencies, has been tried before the United States Supreme Court. The case of *United States v. Certain Lands in the City of Louisville*,²² involving condemna-

²¹ United States District Court of Appeals for the District of Columbia, No. 2464, "In the matter of the acquisition of part of lot 29, etc."

²² *United States v. Certain Lands in the City of Louisville*, Edward J. Gernert, *et. al.*, July 15, 1935. 78 Fed. (2d) 684.

tion proceedings in connection with a project in Louisville, and a similar case involving an addition to a project in Detroit, which had been carried to the Supreme Court, were dismissed upon motion of the government on the ground that as a result of the long delay the funds had been diverted to other projects and that the cases, as a practical matter, had become moot.

ELIZABETH LONGAN.

National Association of Housing Officials.

State Leagues of Municipalities and the American Municipal Association; An Experiment in Coöperation Among Municipal Officials. Municipal officials in 40 states are today coöperating with one another through leagues of municipalities to provide means whereby they may bring the needs of the urban population to the attention of their state legislators and inform themselves as to most efficient practice in the field of public business. These leagues include some 7,000 municipalities as league members, and many more are using league services. The first league was organized 46 years ago, the fortieth in February, 1937. The degree of service, of course, varies as between leagues, owing to differences in strength and financial ability. A few have little more than an annual meeting and limited legislative work. Most leagues, however, carry on a wide range of services such as training schools for city employees, complete information exchange, legislative counsel, monthly magazine, radio programs, legal services, regional meetings, and an annual convention of several days' duration.

The forces behind this coöperative movement are not obscure. In almost every instance, leagues arose as a direct result of the urbanization movement so adequately described by C. A. Dykstra, president of the University of Wisconsin and formerly city manager of Cincinnati: "The growing importance of American cities is indicated not only in our population figures but in the number of units concerned. Five cities mean home to more than fourteen million souls. Furthermore, half the nation's population lives either in or in the shadow of cities of 100,000 or over. Since 1790, this city family has grown to more than 300 times the number of urbanites that President Washington counted, while the rural folk have increased less than 15 times. In 1870, 52.8 per cent of American workers were gainfully employed in agriculture; by 1930, this percentage had dropped to 21.3. It should be apparent, then, that our straggling rural frontier settlement has come to be a full-grown urban industrial society. Moreover, it did this within one century, not slowly and with gradual accommodation as did the urban centers of Western Europe."

Urban government was not prepared for such rapid changes. State legislatures, with rural backgrounds and outlooks, were unwilling or

unable to recognize the urbanization movement going on under their very eyes. Appeals from individual municipal officials for broader powers met with consistent disapproval on the part of the state legislators. Nor was this disapproval entirely unreasonable, since this phenomenal urban growth had resulted, among other things, in the creation of widespread corruption in municipal politics. Under such circumstances, a grant of broader powers might well have been put to disastrous uses. Equally embarrassing to the official has been the steady increase in technological complexity of local government operations. Municipal officials, therefore, faced with an ever-increasing number of urbanites demanding more and more community services yet objecting strongly to any appreciable increase in local taxes, and handicapped at every turn by unsympathetic state regulation, turned for aid to other members of their profession.

From such a combination of circumstances arose the Indiana Municipal League founded in 1891. Of significance is the fact that the principles of coöperation as laid down by this first league have characterized all subsequent organizations. Four more leagues were organized prior to 1900. In 1910, the total stood at nine. Today, as stated, it is 40. The eight states not included in this total either lack state authority to pay municipal funds into such organizations or contain relatively small urban populations.

Support is provided by each municipality in the form of dues and/or service charges assessed annually on a basis of population. This charge varies from \$2.50 for municipalities of a few hundred population in some states to \$1,800 for large cities in other states. The *municipality* rather than the individual *official*, is the league member. The league, although supported by funds paid officially by municipalities in their corporate capacities, is unofficial in operation. It merely provides means whereby municipal officials may bring their collective needs to the attention of their legislature and inform themselves as to current practices in the ever more complex field of municipal administration.

League activities have been guided by a common principle to all co-operative movements: "Perform those services which one member, working independently, cannot perform for himself and which no other agency is performing satisfactorily." Officials coöperate in combatting many difficulties: lack of knowledge on the part of the official concerning most effective methods of public administration; lack of knowledge on the part of both legislator and private citizen concerning the problems of local government; tendency on the part of certain interests to overcharge the public for services and goods rendered, or failure to provide such services in the first place; normal isolation of the individual official from other persons engaged in the same line of work.

The legislative problem is of prime importance, since enabling state legislation is necessary at so many points. As more satisfactory enabling legislation is obtained, the nature of legislative activity changes from policy-making legislation to administrative legislation—from home rule bills, for instance, to traffic control bills. The change, therefore, requires more and more that the league, either on its own initiative or at the request of legislators, present accurate facts relating to the administration of urban business, the while being compelled to pay less attention to securing further broad enabling powers from the state.

A league seldom takes action upon a given issue without virtually unanimous support from its membership, thus forestalling many an ill-advised resolution and legislative policy. The general idea which the league wishes to convey to the legislator is that it presents reliable information concerning a given situation, that information being in the form of official practice, official sentiment, or both. In pursuance of this policy, much attention is given to the collection of reliable information, which then is frequently published in report form and distributed to all persons concerned.

Central or regional legislative meetings are usually held to familiarize the official with the problems before the legislature. Legislator and municipal officials are often brought together at the same meeting in order that each may appreciate the point of view of the other. League bulletins keep officials posted throughout the session concerning progress of pertinent bills. Speaking generally, the extent to which officials will force their desires upon the attention of the legislator varies from state to state. Usually, however, the policy is to bring accurate information to the attention of the legislator, with no effort made to resort to pressure tactics so common to "special interests."

A second important league activity is the information service. This service receives more and more emphasis as a league develops, and is increasing in importance in all leagues from year to year because of the constantly growing complexity of public business. Not only are cities growing in size, thus requiring more complex administrative organization, but the technological advances are such that the official of today must be far more than an "officer of the law." He has become a public business man and administrator shouldered with the responsibility of providing essential community services. Furthermore, it is his obligation not only to carry out the instructions of his citizens but to recommend to them more effective courses of action. Because of the unique bird's-eye-view nature of his position, he is best able to make these recommendations. Social trends, hidden from the private citizen, are revealed, too, in varying degrees of focus to the public business man. Should he be unable to clear up a hazy focus in his territory, he is at liberty to compare

notes with others of his profession through his municipal league. Many types of information service are provided: direct answer to inquiries; the automatic distribution of current information in periodicals (magazine or bulletin) or in special report; the organization of training schools.

Common to all leagues is the inquiry service whereby individual questions from officials are answered personally. Such items of correspondence, along with newspaper clippings, pamphlets, ordinances, etc., eventually build up into vitally important collections of up-to-date administrative data. Supplementing these collections are pamphlets, reports, and bulletins prepared by other leagues or organizations, as well as reports and bulletins issued by the home league. By reference to this collection, a given league is able either to answer a given inquiry directly, send away for further information, or at least refer the inquirer to other municipal officials who have had special experience along the line of inquiry.

Nineteen leagues have monthly magazines, distributed among their members as part of the regular service. Several other leagues accomplish somewhat the same purpose with weekly mimeographed bulletins, with the remaining few maintaining contact with their members by the use of occasional news letters. The primary purpose of the publication in each instance is to keep the official in touch with recent developments in his field of work. Editorial content is in no case restricted to home state news.

Regional meetings and personal visits of a field consultant provide highly effective means of answering the varied questions so constantly before the municipal official. The outstanding benefit of such meetings is the opportunity offered for personal discussion. Through such personal service alone can a real understanding and a workable solution of many problems be achieved.

The past five years have witnessed an encouraging increase in the number of in-service training schools for local officials. New York and Virginia pioneered in this activity with police and fire regional schools. Assessors, building inspectors, food inspectors, milk inspectors, finance officers, public works officers, and many others are in such training schools. The attendance during 1936 was approximately 14,000. National recognition of the need for such training has finally come with the passage of the George-Deen Act, under the provisions of which federal funds will be available for public service training.

All these activities would be impossible were it not for the coöperation provided by the individual officials. Although original organization of a league calls for considerable priming, the point is rapidly reached at which officials fully realize the benefits to be derived from such sharing of experiences and opinions. The public business man, in his determina-

tion to improve his work by taking advantage of the successes and the mistakes of others, finds himself in a unique situation. While the business man in private, many times competitive, enterprise must guard his "trade secrets," the public official, gaining nothing from such concealment, has every reason to broadcast the results of his experimentation. With justifiable pride, he records the details and the "secrets" of operation of his corporation. This record is then at the disposal of any other official desiring to make use of it. As a result, leagues have been able to gather detailed accounts of methods used by different municipalities. Each league, therefore, has been able to set itself up as an authority on municipal administrative practices within its state.

Special services have been rendered where cities did not get satisfactory work done effectively. Some have merchandized certain municipal supplies; some provide professional ordinance revision and accounting services. The coöperative purchasing service conducted by a number of leagues has been most successful. This service arose as a direct challenge to prices being charged by manufacturers of fire hose. By pooling orders from a number of members and setting up minimum specifications, the league was able to halve the prices previously paid. By 1935, this service received such approval from members that it was extended to cover such other commodities as fire department accessories, street-name signs, traffic paint, water meters, and grader blades.

The approach to the accounting, ordinance revision, and debt revision problems is much the same as the above. The Kansas league set up model accounting forms and added to its staff several experts in the accounting field. Gradually, as an ever greater number of municipalities took advantage of the permanent benefits of this service, league activity tapered off. Finally, in anticipation of state participation along this line, the league service was dropped entirely. A similar service is now being performed by a state bureau.

Where effective ordinance and debt revision service is lacking, leagues will frequently either issue a list of approved professionals to handle this work or they will add to their staff a full-time lawyer or accountant. Most of these services are rendered to individual municipalities rather than to an entire membership, and are paid for by a special charge rather than the annual service charge.

After a number of leagues had been operating for some time, there was felt to be a need for a central office which would coördinate the policies and practices of the leagues in the various states. To meet this need, in 1924 the American Municipal Association was formed. It works through the leagues of municipalities in states where such are organized, and provides on a national scale many of the services which are provided by the leagues on a state basis, including the annual convention, a reference

and informational service, and the publication of a periodical bulletin.

In addition to these activities, the Association carries on a number of a more special character. It maintains a Washington office, through which continuous attention is given to the course of federal legislation affecting municipalities. It prepares and circulates special reports and studies on important municipal questions. As official American member of the International Union of Local Authorities, it examines the practices of European cities and interprets them to the state leagues. In brief, it acts as a clearing house for information on all matters concerning the administration of our cities and villages.

In states, too, which have no leagues, special services are rendered by the Association. To municipalities needing consultative assistance, it supplies the regular league services direct from its Chicago headquarters. It also renders assistance to municipal officials in the creation of leagues in such states.

CLIFFORD W. HAM.

American Municipal Association.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

During the past summer, Professor James W. Garner, of the University of Illinois, delivered addresses before the Congress of American Nations in Paris and the Royal Institute of International Affairs in London, and served as a delegate to the World Congress on the Relations of Church and State at Oxford.

Dr. Carl B. Swisher, author of well-known biographical studies of Justice Field and Chief Justice Taney, entered upon his duties in September as associate professor of political science at the Johns Hopkins University.

Professor Harold W. Stoke is on leave from the University of Nebraska for the year and during the period is with the Tennessee Valley Authority as supervisor of training in public administration.

Dr. George R. Sherrill, formerly of Clemson College, has been made head of a newly established department of government at the University of South Carolina. Dr. Sherrill is author of *Criminal Justice in North Carolina* and co-author of a recent biography of Clemson, the founder of Clemson College.

Professor John M. Pfiffner, of the University of Southern California, is on sabbatical leave during the present semester and is devoting his time to gathering materials, in Chicago and Washington, on research techniques in public administration.

Professor Roscoe G. Martin has resigned his position as professor of government at the University of Texas to accept appointment as head of the department of political science at the University of Alabama.

Dr. Stuart A. MacCorkle, assistant professor of government, has been appointed director of the Bureau of Municipal Research at the University of Texas.

Dr. Dean E. McHenry, formerly instructor in political science at Williams College, has been appointed assistant professor of political science at Pennsylvania State College.

Dr. Roger V. Shumate, formerly of the University of Pittsburgh, has accepted an associate professorship at the University of Nebraska.

At Duke University, Dr. R. Taylor Cole, who spent the past summer in research in Italy, has been promoted from assistant to associate professor of political science.

Dr. Elwyn A. Mauck, whose graduate work was completed recently at Columbia University, has been appointed assistant professor of political science at the University of North Carolina.

Dr. J. Mark Jacobson, at one time an instructor in political science at the University of Wisconsin, has been appointed to the legal division of the National Labor Relations Board and is connected with the review staff at the Washington office.

Professor Warner Moss, formerly of New York University, has been appointed head of the department of political science at the College of William and Mary.

During the first week in October, Professor Pitman B. Potter, of the Graduate Institute of International Studies in Geneva, delivered a series of lectures on current international affairs on the University of Illinois campus under the auspices of the department of political science.

Mr. Chitoshi Yanaga, who received his doctor's degree in political science at the University of California in 1934 and during the past two years has been studying at the Imperial University in Tokyo, has been appointed instructor in history and government at the University of California. During 1936-37, he held a fellowship from the Carnegie Endowment for International Peace.

New members of the political science staff at the University of Illinois include Dr. David O. Walter, formerly of Cornell University, as instructor; Dr. J. F. Isakoff, formerly an assistant at Illinois, as instructor; and Dr. C. B. Hagen, formerly of Smith College, as associate. The last-mentioned has taken over some of the work formerly in charge of Professor Charles S. Hyneman.

Mr. C. N. Fortenberry, who received a doctor's degree at the University of Illinois in June, is now instructor in political science at Edinburg College, Texas.

Mr. Asher N. Christensen, instructor in political science at the University of Minnesota, has been appointed adviser to foreign students at that University.

Dr. D. W. Brane has resigned his position at Western Reserve University in order to accept an appointment at Otterbein College.

Recent promotions at the State University of Iowa include: Drs. John E. Briggs and Ivan L. Pollock, from associate to full professor, and Dr. Ethan P. Allen, from instructor to assistant professor.

At the University of Pennsylvania, Professor Charles C. Rohlfs has

been made chairman of the department of political science, in succession to the late Clyde L. King, and Dr. J. C. Phillips has been advanced to the rank of assistant professor. Four visiting professors are giving service during the year, as follows: Dr. Samuel Guy Inman, of Columbia University, a graduate and an undergraduate course on Latin American relations; Dr. William P. Maddox, of Princeton University, a graduate course in international politics; and Dr. Harley L. Lutz, of Princeton, in charge of graduate work in public finance during the first semester and Dr. Alfred G. Buehler, of the University of Vermont, during the second.

Under the direction of the School of Public Affairs and Social Work at Wayne University, Mr. Laurence Michemore, of the department of government, is in charge of the newly established in-service curriculum for public employees. The courses are being given in conjunction with the State Vocational Board. Employees will not receive college credit and are not required to meet the usual academic requirements for admission to courses.

The sesquicentennial of the Constitution of the United States was celebrated at Wellesley College on November 15-17 by means of a series of lectures by Professor Thomas Reed Powell, of the Harvard Law School, who also led a number of round-table discussions.

The University of Minnesota began the second year of its graduate training program in public administration in September. Pre-service fellowships were awarded to the following: Lowell D. Ashby, A.B., Hastings College (Nebraska), 1936, A.M., Nebraska, 1937; Charles T. Bigelow, B.B.A., Minnesota, 1937; Thomas J. Gentry, Jr., A.B., Arkansas, 1937; Julia J. Henderson, A.B., Illinois, 1936, A.M., 1937; Theodore R. Hupper, B.S., Colorado State, 1937. In-service fellowships were awarded to the following: Russell P. Andrews, A.B., Stanford, 1928, deputy director, N.Y.A. in Oregon; Edward G. Conroy, B.S. in E.E., Notre Dame, 1930, superintendent of police communications, San Antonio, Texas; Lloyd C. Kersey, A.B., Macalester College, 1927, A.M., Minnesota, 1937, parole agent, state board of parole in Minnesota; Gertrude R. Munsell, B.S. in P.A., Missouri, 1931, assistant director, division of employment, W.P.A. District Office, Rolla, Missouri.

By action of the board of regents, a Bureau of Governmental Research has recently been established at the University of California at Los Angeles for the purpose of making studies in the field of public administration. Special attention will be given to the governmental problems of the various Southern California communities. In addition to carrying on original studies, the bureau will assist in making available to graduate and senior students the best sources of current information concerning

governmental affairs; and all facilities will likewise be available for use by local public officials. Professor Frank M. Stewart, chairman of the department of political science, will direct the activities of the newly created unit, assisted by a staff composed of Dr. George W. Bemis, research associate, and Miss Evelyn Huston, librarian.

Earlier in the year, Messrs. Doubleday, Doran and Company announced the winner of the First Theodore Roosevelt Memorial Award—Dean Alfange, a young Greek-American practicing attorney of New York City, whose study, *The Supreme Court and the National Will*, is a keen analysis of the relation of Supreme Court decisions to their economic, social, and political backgrounds. Honorable mention was given a manuscript by Professor W. E. Binkley, of Ohio Northern University, on *The Powers of the President: Problems of American Democracy*. Both books will be published shortly.

Dr. Robert Karl Reischauer, lecturer in the School of Public and International Affairs and instructor in the department of Oriental languages and literatures at Princeton University, died on August 14 of wounds sustained from the explosion of a bomb in front of the Palace Hotel on the Shanghai Bund. His writings include a doctoral dissertation on *Alien Land Tenure in Japan*, published in the "Transactions of the Asiatic Society of Japan," a two-volume chronology and guide to early Japanese history, published by the Princeton University Press, and articles in the *Harvard Journal of Asiatic Studies*. Dr. Reischauer was one of the best prepared, as well as one of the most promising, American students of Far Eastern politics and international affairs. Son of the Buddhist scholar, Dr. August K. Reischauer, he was born and received his elementary education in Japan, whither he returned for further study after graduation from Oberlin College and before receiving his doctor's degree at Harvard University in 1935. His death at the moment when sound scholarship on the Far East is most needed is an irreparable loss.

With its twelfth number—December, 1937—*Events* completes its first year of publication. This monthly review of world affairs was founded by Spencer Brodneý, who had been editor of *Current History* until that magazine, in April, 1936, ceased to be a publication of the *New York Times*. In the belief that the recording and interpretation of events and developments throughout the world should be based on sound scholarship, the contributors to *Events* have been drawn almost entirely from the colleges and universities of the United States. One result of this editorial policy is that *Events* has been coming increasingly into use in the study and teaching of history and the social sciences.

The fifty-seventh annual meeting of the Academy of Political Science,

held at the Hotel Astor, New York City, on November 10, was devoted to the general subject of expenditures of the national government. One session was given to the national budgets of Great Britain, France, and the United States, 1928-1937; a second, to the future of the federal budget; and at a dinner meeting aspects of the general subject were discussed by Senator Harry F. Byrd of Virginia and Secretary of the Treasury Henry Morgenthau.

The first Pan-American Congress of Municipalities will be held at Havana, Cuba, beginning next April 14. On the agenda appears a lengthy list of topics pertaining to municipal organization, municipal administration, public utilities, public works, transportation, public safety, and social problems, in addition to general subjects such as the importance of the municipality in the social evolution of the nations of America, sociological effects of modern municipal environment, population movement from rural to urban areas, and the relation of municipalities to central government. Correspondence concerning participation in the Congress should be addressed to Sr. Presidente de la Comisión Nacional Organizadora del Primer Congreso Panamericano de Municipios, Secretaría de Estado, La Habana, Cuba.

BOOK REVIEWS AND NOTICES

Theory of the Democratic State. BY MARIE COLLINS SWABEY. (Cambridge: Harvard University Press. 1937. Pp. 234.)

In this volume, the author has undertaken to state, in a form acceptable to logic and theory of knowledge in the present phase, the traditional assumptions and evaluations of political liberalism. These amount to what is called "intellectualism," sometimes in praise but more often nowadays in dispraise. Some values are alleged to be reasonable, and some types of human relations are held to be justifiable because they follow logically from such values; in particular, liberal political practices are held to be defensible in this way. Moreover, it is assumed that a reasonable arrangement is more likely to exist and to persist than an unreasonable one. All of these positions are controverted or denied by contemporary political theory, or are made but not avowed by writers who think that democracy is respectable though not defensible. Perhaps the most appealing quality of this volume is its frank avowal of the traditional intellectualist bias of liberalism. In practice, the book aims to deflect to liberalism some of the reverence still felt for science. In theory, it undertakes to show that an identical structure of rationality supports both science and democracy.

Specifically, the author argues that there is a "general kinship" between the methods and postulates of science and those of democracy; both have "their common source in the quantitative method" (p. 37), and "each seeks to obtain mastery over the external world by treating its objects numerically and as subject to determinations of magnitude" (p. 17). This estimate of democratic practice is defended by pointing to equal and universal suffrage, constituencies based on numbers, and representation of a kind that approximates statistical sampling.

The relation alleged to hold between science and democracy is literally kinship. The author does not hold that either grew by imitation of the other, nor will she admit that both resulted from the progress of the mechanic arts. Her general philosophical position, if I grasp it, is a modernized Kantianism: the mind is supposed to have a kind of rational structure which provides the schemata of what is reasonable in every subject-matter. These schemata are postulates or working hypotheses rather than self-evident principles, but they are definitely principles of logical consistency and they supply the keys to any validity, whether of science or practice. This position is developed most clearly on its negative side, in her rejection of all forms of dialectical logic arising from Hegelianism. This is the essence of her criticism of both communism and fascism: they violate the intellectual integrity of a strict logical consistency.

This diagnosis of intellectual shiftiness in dialectic, whether of Hegel or of Marx, appears to me to be substantially sound. Whether it implies a revised form of Kantianism is another question. There seems little reason to think that any formal logic will ever again attempt to shoulder the whole load of the sciences as they were customarily formulated, and still less reason to think that it will shoulder also a system of political justice. At present, it looks rather as if both logic and science were finding out how little there was in the customary formulation that was necessary. Formal consistency is extraordinarily adaptable; if there are "queer" geometries, or even queer logics, there ought to be the possibility of political and ethical systems as queer as anyone wishes, without any violation of logical consistency. Even if it had always been true that "progress and freedom . . . are regulative notions implied in every political theory" (p. 148), it might still be true that this need not be so. The truth seems to be that in politics and ethics one can postulate what values one chooses; consistency will then determine what follows, but it cannot either rule out or substantiate the postulate.

GEORGE H. SABINE.

Cornell University.

The Origin and Nature of Constitutional Government. BY HUGH McDOWALL CLOKIE. (London: George G. Harrap and Company. 1936. Pp. 155.)

When the future arrives and hindsight is in a position to corroborate or to ridicule foresight, it is at least possible that the position will be vindicated of contemporary students of political science who, while attempting sympathetic understanding of the chaotic world of government, refuse to take the plunge into complete relativity of judgment, and who hold fast to the belief that the most suitable norms are still those which have been developed, and are being developed, through the evolution of democracy, constitutional government, and the parliamentary system. Such a possibility, which to some may appear even a probability, requires logically, not the abandonment of the older studies, but rather a continuous reëxamination of government that is democratic, constitutional, and parliamentary, and of the principles involved. On this score, Professor Clokie's little book may be warmly commended and recommended.

As the title of this work indicates, its contents are partly historical and partly analytical. Of its four chapters, two—one on "Parliamentary Origins" and the other on "The Evolution of the Cabinet System"—are concerned with *origin*. They are, thus, in a sense introductory. They are justified by the author as an attempt to correct certain popular errors, and are denominated in the publisher's blurb "a slight excursion into English constitutional history." Some readers, doubtless, will scarcely consider "slight" an introductory excursion that comprises

more than half of the whole volume. At the same time, the interest and importance of the chapters can hardly be lessened by doubts concerning proportion. Any discriminating treatment of the constitutional history of England ought to be guaranteed the sympathetic attention of serious students of government. The third chapter, the chapter primarily devoted to *nature*, deals with constitutionalism. It contains the essence of the essay. The analysis is forceful, the insight acute, and the conclusions arresting and provocative. A fourth and last chapter is concerned with the spread of constitutional government.

The whole of Professor Cloukie's short work is announced by him as an introduction. Hence, interesting as it is in its own right, it possesses the further interest of two promises made. The preface announces a work on the theory and practice of parliamentary government in the leading countries, and a footnote a comprehensive volume on the organization and practices of English political parties. This is important news.

R. K. GOOCH.

University of Virginia.

Lawlessness, Law, and Sanction. BY MIRIAM THERESA ROONEY. (Washington: The Catholic University of America. 1937. Pp. 176.)

The main thesis of this dissertation in philosophy is "that the revolt against Christian unity, the eventual rejection of all religion, and the rise of erratic philosophies consequent upon the denial of the authority of God, caused the decline in the strength of the sanction of law, which has resulted in the violence, injustice, and lawlessness that afflict us."

The "erratic" philosophies mentioned are the antecedents reflected in Bentham's, Maine's, and Holmes' emphasis on the element of force in legal sanction. In criticizing their conceptions of sanction and the effect which she ascribes to them, Miss Rooney—except for a few incidental references to methodological errors—evaluates the assumptions underlying them in the light of her own preconceptions. Her presuppositions are the well-known affirmations of the Scholastic writers concerning the nature of man and of the universe—allegations of facts the truth of which they could not verify empirically and therefore tried to excogitate by logical reasoning.

Asserting that individual "responsibility is the foundation upon which the sanction of law is based," the author attributes the breakdown of law observance to the neglect of character education. The "erratic" philosophies and behavioristic psychology, owing to their denial of a free will to the individual, are jointly held responsible for the tendency to minimize the individual's accountability for conduct and for the imposition of the burden of controlling conduct on the state, a function which the state is not warranted to assume and which it is unable to perform effectively.

This "historical study" abounds in general statements that no careful historian would make without adducing evidence. We are told that "all history since [the thirteenth century] has recorded a decline in law observance," that "our social order is disintegrating," and that crime is "rampant," owing to an "atrophy of moral fiber." No evidence is cited in support of these contentions, unless the references to the fact that Bracton and St. Thomas Aquinas brought forth their conceptions of sanction in the thirteenth century and to the subsequent changes which the concept underwent are to be regarded as such.

In view of what is known about the physical and social causes of crime, Miss Rooney's notion of the efficacy of character education—even if reinforced by punishment of law-breakers—seems exaggerated. Nevertheless, she writes with considerable self-assurance, as is indicated by her liberal use of such terms and phrases as "specious," "erratic," "philosophical inadequacies," and "deliberate ignorance of historical and philosophic truths," when referring to systems of thought other than her own.

HENRY JANZEN.

Hamilton College.

Joseph De Maistre and Giambattista Vico. BY ELIO GIANTURCO (New York: Columbia University Press. 1937. Pp. ix, 240.)

The title of this doctoral dissertation, and its subtitle, "Italian Roots of De Maistre's Political Culture," seem something of misnomers. The work is primarily a monograph on De Maistre's political and cultural thought, although there are many incidental references to the ideas of preceding thinkers which influenced him and frequent citations of passages from the works of Vico and others, parallel or analogous to ones occurring in De Maistre himself. Beyond demonstrating that many of Vico's ideas, as well as ones deriving from Aristotle, Tacitus, Cicero, Livy, Machiavelli, and Montesquieu, lay ready to hand for De Maistre to use in his romantic and traditionalistic revolt against eighteenth-century rationalism, the author fails to show any direct literary parenthood of Vico over De Maistre. No doubt he read Vico carefully, as he did a wide range of classical theorists. Probably, also, Vico's doctrines constituted the core of that body of thought which may be regarded as generally seminal for the conservative reaction to radical intellectualism which ripened in the post-Revolutionary period.

The book suffers badly from a ponderous style, an excess of erudition, many obscure passages and interpretations, and numerous ambiguous or unfathomable hiatuses in the thought-transition between paragraphs. Despite these deficiencies, it affords much valuable information on, and some interesting interpretations of, De Maistre's political, social, religious, and philological doctrines for any one patient enough to digest it.

Thus, many may be surprised to learn that De Maistre, although championing absolute sovereignty in a single monarch and opposing Montesquieu's theory of a mechanical separation of powers, interpreted these concepts of sovereignty and monarchy, at least at times, in a symbolical sense to mean the necessary prerequisite to formal juristic unity, instead of in the sense of despotic and arbitrary power. Magistrates, not kings, are to judge in civil cases, and the king should rule temperately according to the sacred constitutional and customary laws (pp. 10-19). Nor is his undoubted belief in the institution of the papacy and in papal infallibility perhaps so much an advocacy of an Italian or "ultramontane" Pope as of a papacy centering in France and propagating French values (p. 224).

On the whole, however, Gianturco does not seem to modify materially conclusions already reached by other commentators as to the metaphysical, theocratic, and mystical bases of De Maistre's political theory; its uncompromising traditionalism, conservatism, and nationalism; its emphasis on sentiment, instinct, "myths," and "common reason" as against *a priori* and conscious intellectualism; or its espousal (despite the attack on Voltaire's *a priorism*) of mystical and intuitive "laws of history."

Special chapters are devoted to De Maistre's political morphology or theory of forms of government, to his doctrine of constitutions, to his ideas on nation and religion, to a lengthy and (to the reviewer) opaque discussion of his philological doctrines, and to a summarizing of his achievements. The bibliography is exhaustive.

MAX A. SHEPARD.

Cornell University.

The Power to Govern. BY WALTON H. HAMILTON AND DOUGLASS ADAIR.
(New York: W. W. Norton and Company. 1937. Pp. 194.)

This is a polemical work of an unusually gracious variety. The authors, like some others, were considerably irked by those decisions of the Supreme Court which upset the N.I.R.A., "the little N.I.R.A.," and the A.A.A. on the basis of a sharp distinction between "commerce" and "production," and they address themselves to the task of demonstrating the historical unsoundness of this distinction. Their thesis is indicated in the following passage concerning the meaning of the word "commerce" in 1787 or thereabouts:

"It is all but impossible in our own age to sense fully its eighteenth-century meaning. The Eighteenth Century did not separate by artificial lines aspects of a culture which are inseparable. It had no lexicon of legalisms extracted from the law reports in which judicial usage lies in a world apart from the ordinary affairs of life. Commerce was then more than we imply now by business or industry. It was a name for the economic order, the domain of political economy, the realm of a comprehensive public

policy. It is a word which makes trades, activities, and interests an instrument in the culture of a people. If trust was to be reposed in parchment, it was the only word which could catch up into a single comprehensive term all activities directly affecting the wealth of the nation."

Our authors first resort to eighteenth-century lexicons—a phase of their argument which falls considerably short of their purpose. The vast proportion of the definitions and phrases culled from such sources regard "commerce" as *trade, traffic, dealing, intercourse*; and while some of them do seem to merge manufacture, or the eighteenth-century equivalent, with traffic as a sort of *continuum*—a mode of disposing of the national superfluity, many others do not; and all clearly regard "agriculture" as designating an activity or interest apart from either trade or manufacture.

It is when, in Chapters IV and V, Messrs. Hamilton and Adair proceed to project their argument against the political outlook of the age and of the men who framed the Constitution that it becomes most persuasive. Set in this context, the power to "regulate commerce" assumes the enlarged connotation for which they contend. The framers were Mercantilists almost to a man; they believed government capable of giving the economic activities of society direction and of making them contribute to national grandeur. Also—though the point is not stressed by our authors—they found in this relationship between governmental policy and private enterprise a decided prop to aristocracy. Furthermore, they were "high sovereignty" men—when government possessed a power, it was entitled to use it at its own discretion; it need not wait on judicial theorizing. And in this last connection, the reviewer finds it necessary to demur to the formulation by Messrs. Hamilton and Adair of the issue raised by the decisions which they deplore. As they phrase it, "in the word 'commerce' the whole issue lies" (p. 14). Not so—it lies also in the word "regulate." Indeed, it would seem that the Court has been rather tenderer of the *noun* than it has of the *verb* in this instance, as in some others.

And thus much for the strictly historical issue. It is not, however, our authors' contention that judicial construction of the "commerce" clause ought always to have proceeded from the Mercantilist point of view, or that this could reasonably have been expected. They say:

"As mercantilism passed, into the intellectual succession then came—along with the machine, the corporation, and business—another economic philosophy. In the articles of faith which is *laissez-faire*, business is more capable than the state to direct the activities of the people toward prosperity. The government is the villain in the piece, and the frontiers of Business Enterprise must be protected against its encroachments. Another route led to the general welfare. All through the Nineteenth Century this outlook upon affairs gained ground. . . . It had already permeated common sense, economic theory, and public policy. It would have been strange if it had not made its way into constitutional interpretation.

It was borne along on the current of the age, and had behind it the dominant interest that sought to become vested. The supreme law of the land was not immune to an outlook on affairs which had already penetrated the infringing intellectual world."

Yet in this very fact, they suggest, lies assurance: "An instrument so yielding to insistent pressures is flexible enough to meet the democratic demands of the immediate future. The abiding text can again be furnished out with a more fitting glass."

How, then, is the Court to be persuaded to turn its eyes once more "from the margin back to the page"? "It may be," our authors answer, "that Legislature and Executive, exercising their constitutional powers, will contrive ways and means" for bringing this about; or "it may be that the gloss lies so thick that the power to govern must be written afresh in the language of today." All of which, of course, was written prior to the Wagner Act and Security Act decisions.

No one who pretends to the least interest in the Constitution and the problem of its interpretation should miss reading this volume. The task will prove an easy one, for the style is delightful and matches most gratifyingly the high quality of the thought. In eighteenth-century terminology, it is a "philosophic" work.

EDWARD S. CORWIN.

Princeton University.

State and National Power Over Commerce. BY F. D. G. RIBBLE. (New York: Columbia University Press. 1937. Pp. 266.)

This is a study, in twelve chapters, of the commerce power of the state and of the United States under the constitution. The book deals with the commerce power as that power has been subjected to judicial determination, and is not a study of the economic or sociological aspects of life that have affected these determinations. The method of the book is partly historical and partly analytical. The general outlines of the historical evolution of doctrines is carried on with more elaborateness than in several of the recent books upon the subject, and with somewhat less of the analytical treatment than is to be found in a book like that of Gavit. The book really adds nothing new to that which is known about the subject, but it does provide within a reasonable compass a clear statement of the doctrinal elements in the law and traces the shifts in doctrine from period to period and from situation to situation. On the whole, the author seems fairly content with the work of the Court, although one feels at times that he holds Marshall's doctrines in high esteem. Many of the present era find much of the nationalistic Marshall to their liking, even though Marshall probably would vote against the New Deal acts were he on the Court today.

The general thesis of the work is well set forth in the following quota-

tion from the introduction: "Reference has been made to the fact that the early history of the commerce clause was written by the judiciary with but little help or hindrance from Congress. In this judicial period, a doctrinal basis for the division of power over commerce was sought first in the 'nature of the power over commerce.' Later, the 'nature of the power' was deemed too theoretical. With a desire to approach more closely to what had come to be regarded as the realities of the situation, the Court turned to the 'subjects of the power' over commerce as furnishing a guide. The new doctrine was itself subject to modification. And Congress by degrees became more active in commerce matters. Thus the 'will of Congress' was accepted as a vital factor in determining the scope of state power in the field of interstate commerce. This development did not, of course, allow Congress to define its own power under the commerce clause. But when the matter in question was deemed to be within the area of the congressional power, the Court began to invoke the 'will of Congress in determining what the states would be permitted to do. This will was found in the silence of Congress as in its voice. Its fictitious aspect is apparent. Into this idea of the 'will of Congress' as well as into the conception of 'burdens' on interstate commerce were fitted limitations on state power."

The author criticizes the Court vigorously for the use that is made of fictions and of phrases that becloud the issue. He feels that formulas and formalism have been both a tool of and a master of the justices. But when the appraisal is finally made, it is clear that he thinks that the Court has kept before it the central problem of commerce, as the author sees it, namely, the balancing of local against national interests, and that the Court has generally held the balance wisely.

The author has done his work carefully. The book is reliable. He has adorned it now and then with references to natural law, to jurisprudence, and to more general works of history, but the study for all of that is a case study. It is a good case study, but it still remains for someone to write about commerce in such a way that the details and specifics of political, economic, and commercial trends and practices show up in their relation to the decisions. This was not the task, however, which the author set for himself, and he must be held accountable for only that which he started out to do. He did that well.

OLIVER P. FIELD.

University of Minnesota.

Pressure Politics in New York. BY BELLE ZELLER. (New York: Prentice Hall, Inc. 1937. Pp. ix, 310.)

Despite the recognized importance of lobbying, there are but few adequate analyses of group representation before legislative bodies. Miss

Zeller's scholarly study of lobbying before the legislature of the wealthiest and most populous state in the Union is therefore especially welcome. The book contains not only chapters describing different types of organizations, but also a chapter analyzing techniques and another proposing reforms.

In New York, labor appears to have the most powerful lobby, probably because it can depend upon a large body of organized voters, can take an active part in campaigns, and can encourage its supporters to become members of associated lobbying organizations. Industry has suffered from the collapse of its allies in the Republican party and finds itself unable to muster a body of organized voters, but through the Economic Council business and employer groups have made a broad and skillful propaganda appeal to the great mass of unorganized voters. This propaganda activity has supplied a popular voice to supplement the pressures which business leaders can exert through their control of the economic structure. The farmers have brought together most of their lobbying activities in the New York State Conference Board of Farm Organizations, which uses the large farm vote as a lever in the cause of agriculture, thus bringing pressure to bear not only on the legislature but on the administration also. Too little space has been given to the religious denominations, a shortcoming made more obvious by the recent activities of the Roman Catholic Church in defeating birth control and child labor legislation. Some compensation for the omission is found in the excellence of the chapter on the lobbying of the State Charities Aid Association, and especially its conflicts with other organizations and the administrative officials. The author notes with regret the lack of a lobby protecting the interests of consumers. The chapter on lobbying techniques describes, among the most notable developments, a tendency for lobbies to enter into alliances, to appeal to individual legislators instead of the party leaders, and to arouse and organize voters to aid the lobby pressure.

The author says: "It is apparent, . . . that any attempt to solve the problem of the lobby and create a system in which the various pressure groups will exert an influence in proportion to their social usefulness necessitates not merely a better-drawn and more vigorously-enforced lobby law, and the extension and improvement of official research agencies, but also a thoroughgoing reorganization of both legislative structure and the procedure itself." She recommends the introduction of a small unicameral legislature in place of the present system, but it is surprising that she gives no consideration to the possible use of proportional representation, a scheme which would provide more direct representation for some of the groups she describes as engaged in lobbying. After all, lobbying is a problem of representation, and the reviewer cannot agree with the author's mystical notion of "selfish" lobbies pleading their causes before

an "impartial" legislature representing the "public interest." It is only fair to say, however, that such views do not predominate in the book, which otherwise displays real insight into the legislative process.

WARNER MOSS.

College of William and Mary.

Integrity; The Life of George W. Norris. BY RICHARD L. NEWBERGER AND STEPHEN B. KAHN. (New York: The Vanguard Press. 1937. Pp. x, 383.)

George W. Norris will be remembered as the author of the Twentieth Amendment to the federal Constitution and the leader in the fight to give Nebraska a unicameral legislature. He has been a consistent and persistent champion of the plain people. That championship particularly stands out in the realm of electric power. This book presents a complete picture of the statesman from Red Willow county, Nebraska. He is, as the authors claim, a great man, a man singularly honest, and a man who has contributed much to his generation and to the well-being of his country. However, the authors attempt to paint him as a too perfect man. He may be "the very perfect gentle knight" to President Roosevelt, but he is hardly that to some who have heard his tongue-lashings in the Senate. It apparently never occurs to the authors that a man who has never been to Europe, shuns social affairs in Washington, and never goes to church may be somewhat limited in his outlook. A senator who votes against accepting the Mellon art gift and who criticises Chief Justice Taft for going to Washington dinner parties is a narrow man. Great as Norris is, there is about him the provincialism of the prairies.

Then, the authors are continually ringing the changes with fulsome praise for Norris for his vote against our entry into the World War. Walter Lippman once spoke of the "sentimentality of peace." It runs all through this book. Many Americans believe they went to war to save their souls and that the democracies of France and England are standing guard today over the heritage of the race because of our military effort.

The evolution of Norris's ideas on the tariff and partisanship is well presented. But this very non-partisanship, which may be admirable in one man, might not do for the many. The chief criticism levelled against the new Nebraska legislature is the non-partisan idea which Norris worked into it. A. Mitchell Palmer, one of the Wilson leaders, is referred to (p. 188) as "Attorney-General in the Harding cabinet." The book is too much propaganda for a particular social and political philosophy. There are many quotations from *The Nation* and the *New Republic*. Apparently these magazines represent the angle of approach of the authors. Their only criticism of Norris is that he agrees to "the halting

pace of the New Deal." The style is readable rather than distinguished.

PAUL M. CUNCANNON.

University of Michigan.

Recent Trends in Rural Planning. BY WILLIAM E. COLE AND HUGH PRICE CROWE. (New York: Prentice-Hall, Inc. 1937. Pp. xv, 579.)

This book is intended as an attempt to describe efforts to "plan" with reference to a number of social, economic, and political problems found in rural areas. Whether what is being done or suggested in relation to these problems adds up to something like "planning" depends upon how that erstwhile fashionable term is defined. The authors offer several definitions, all having in common the element of comprehensive coördination of effort which is certainly essential to the idea of planning. If a definition containing this element is accepted, then it would follow that the means adopted for the reordering of rural life would have about them a certain unity and consistency not found in a planless society.

While the suggestions of experts and the experiments of reformers and administrators with regard to rural problems may well be of value to the magisterial mind which is one day to do our planning, they do not as yet strike us as constituting planning. About two-fifths of the book deals with planning with regard to such matters as our agricultural resources, land use, and land settlement, though there is interspersed considerable discussion of the planning of "human resources." Much of this part of the book may be accepted as a collection of data and opinion on a great variety of matters, human and otherwise, which will be very useful to students of rural life—farm income, "problem areas," local government costs, rural housing, population movements, farm tenancy, and so on. These matters are the raw material of planning rather than planning itself.

In the succeeding chapters (vii-xvi), the authors seem to have still further lost touch with their definitions of planning. These chapters deal with such matters as rural social welfare, juvenile delinquency, crime control and justice, public health, education, library planning, recreation, rural church planning, rural government, and rural electrification. Nearly all of these involve much more refractory material than that dealt with in the first part of the book, and the reader has the impression that he is reading a series of disjointed efforts to improve country life rather than about parts of a coördinated plan. What the authors have really done is to produce another manual in the field usually known as "rural sociology," and it is unfortunate that they have allowed the recent fashion about planning to influence their choice of title. Some may doubt whether "rural sociology," containing as it usually does such heterogeneous materials, is a legitimate subject for scholarly attention, but, assuming that it is, this

book is one of the completest, as it is the latest, in that field. While it would have been improved by more attention to general ideas, the authors have shown great industry and considerable skill in assembling and presenting interesting and concrete materials from a vast variety of sources. This material is cited copiously in the footnotes and in the selected bibliographies at the ends of the chapters.

LANE W. LANCASTER.

University of Nebraska.

A Hundred Years of English Government. BY K. B. SMELLIE (New York: The Macmillan Company. 1937. Pp. 468.)

A History of the English Coronation. BY PERCY ERNST SCHRAMM. (Oxford: The Clarendon Press. 1937. Pp. xv, 283.)

The Magic of Monarchy. BY KINGSLEY MARTIN. (New York: Alfred A. Knopf. 1937. Pp. 125.)

One of these books deals with British government as a whole during the last hundred years. The other two are concerned with the monarchy and the coronation, to which recent events have attracted attention. While each deals with some matters also referred to in the others, in the main they supplement each other in emphasizing different aspects of the British system.

Mr. Smellie's work on English government during the century from William IV to George VI illustrates the thesis that government in England is not static, but is constantly in process of change. He divides the century into three main periods: from 1832 to 1870, from 1870 to 1914, and since 1918, with a chapter on the war interregnum from 1914 to 1918. To each of the other periods he gives three chapters—one each on the state and society, government and parties, and the machinery of administration.

The first chapter in each section deals with social conditions and theories, the expanding functions of government, and imperial and international policies and problems. Even in the first period, the prevailing *laissez faire* principles were modified in practice; and internal and external forces continued to accelerate the growth of government services in the second, and still more during and since the World War. Mr. Smellie accepts the breakdown of *laissez faire* as inevitable, but neither advocates nor assumes the desirability of a completed socialistic policy.

In the chapters on government and parties, there are considered the reform bills and their results, the development of party organization, and changes in parliamentary procedure and in the importance of the cabinet. "Between 1832 and 1868 we have the transformation of the conflicting cliques within a governing class into the party organization of a democrat-

ic state" (p. 52). "Since 1832 the English system of government has been transformed; the confused and conflicting powers of King, Lords, and Commons has been transformed into the menacing simplicity of a Cabinet dictatorship, mitigated by professional experts, organized interests, and electioneering propaganda" (p. 270). At the same time, "the innate conservatism of English political practice has been as mixed a blessing as the legal rigidity of the constitution of the United States" (p. 272).

Rules of parliamentary procedure, developed to defend the representative body against a powerful executive, have been altered so as to aid the ministry in the task of government (p. 76). Changes were made between 1832 and 1872; but the radical transformation came after the Reform Bill of 1867 (p. 967). But even now the time devoted to government legislation does not exceed half the sitting time of Parliament. The House of Commons has failed to focus public attention on important issues (p. 377). A majority, however determined, cannot pass with the ordinary procedure half the measures necessary to bring the law up to date.

At the same time, "there is a fundamental uncertainty in all the parties shared by all honest minds as to the policy to be followed. The Labour party does not really believe that the evils men do are due to the existence of private property; the Liberal party does not really think that Cobden has new worlds to conquer; and the Conservative party does not know what order it should patriotically defend" (p. 394).

Relatively more attention is given to the machinery of administration than in most works on English government. This includes some account of the development of certain departments, the system of financial control, the civil service, the judicial system, local government, delegated legislation, and administrative justice. Before 1914, the administrative machine of the county was becoming too tangled to provide the service national and social problems required. In 1918, the Haldane Committee proposed a comprehensive reorganization, which has been applied in a few fields; but pressing problems have led to further uncoordinated expedients, while the general principles of the Haldane report have been challenged in some quarters.

The expansion of government may be indicated broadly by the growth of the civil service, from 21,000 in 1832, to 53,000 in 1871, and to 434,000 in 1929. Reform of this service from the dangers of patronage was begun in 1855, and placed on a firmer foundation by the introduction of open competitive examinations in 1870, since gradually extended. Of special importance is the position of the higher posts in the administrative class, recruited from university graduates. In the eighteenth century, the permanent officials had been little more than clerks of their political chiefs. But with the change in the scale and nature of government "the permanent head of a government department must himself be a states-

man in everything except ability to lead a party or inspire an electorate, or sway the House of Commons" (p. 425). Recognition of their importance is shown by Mr. Smellie's frequent reference to such officials, though the tradition of anonymity makes it difficult to secure full information on their influence. As this becomes more generally known, the problem will arise as to the effect of this knowledge on their position.

Some typographical and other minor errors have been noted; and the details of a confused and unsystematic development may discourage some readers. But Mr. Smellie's work will be of much service to those interested in the changing purposes and processes of English government.

Professor Schramm's *History of the English Coronation* is the work of a German scholar who for many years has been studying the history of coronations in Western Europe, and who has previously published a number of essays on coronations in various countries. Part I deals with the general history of coronation rites among the Teutons and Celts, and the development of the English service from the time of the Anglo-Saxons. He takes the position that: "The factors that determined the consecration of an Anglo-Saxon King were Teutonic custom, Christianity and the idea of Kingship prevalent under the Carolingian and Saxon emperors." Incidentally, however, he notes that: "Teutonic princes . . . placed the Imperial purple on their shoulders, and felt themselves entitled . . . to claim the insignia of the Roman emperor—the diadem, and then the sceptre and the orb." But he does not refer to the coronation of the later Roman emperors by the Patriarch of Constantinople, from the middle of the fifth century. Of Celtic influence he holds there is virtually no trace worth mentioning, and that this may be left entirely out of consideration. Yet he notes that Scotland borrowed from the Irish the custom of making the monarch sit or stand upon a stone. But he does not mention the "stone of destiny," brought from Ireland, on which the early Scottish kings were crowned, and the legend that it was the stone on which Jacob slept at Bethel, nor the fact that this stone, taken to England by Edward I, forms part of King Edward's chair, on which English and British kings have been enthroned to the present time.

Part II deals with the constitutional theory of the royal power, as illustrated by the rite of anointing, by the elective element, surviving in the proclamation of a new king and his acclamation and recognition at the time of coronation, and by the history of the coronation oath—the germ of Magna Carta and constitutional monarchy. In all of these there is a mingling of native and foreign elements; but the final result is "a peculiar, unique, and consequently specifically English rite."

In Professor Schramm's history of the coronation ceremony, there is no discussion of later developments in the position of the British monarch. Mr. Smellie refers to specific actions by Queen Victoria, Edward VII, and George V; but he considers that: "The Monarchy has become a

device by which the emotional needs of the public mind can be met. . . . Queen Victoria's personal power exacted an incredible expenditure of time and temper by her ministers. . . . During the reign of Edward VII, most of the prerogatives in which he claimed a personal discretion . . . were challenged and surrendered."

The Magic of Monarchy, by Kingsley Martin, editor of the *New Statesman and Nation*, undertakes in 125 pages to explain the abdication of Edward VIII, in the light of the changing conception of the kingship. Under Victoria, "the prestige of the Monarchy increased when its power declined." "We do not know enough yet to judge what actual influence on events Edward VII and George V had, but we know that it was not of comparable importance to that exercised by Queen Victoria." At the same time, "Edward VII was successful in sustaining the popularity of the Monarchy . . . ; and . . . George V actually enhanced it. The effect by the end of George V's life was . . . to change the rational attitude towards Monarchy . . . into an uncritical adoration."

The abdication of Edward VIII "was the surprising result of a combination of circumstances." None of the simple explanations is true, but there is a fragment of truth in all of them. Mr. Martin considers in turn the attitude of the king, the prime minister, the archbishop of Canterbury, the members of Parliament, and public opinion as expressed in the press and elsewhere. At one stage "the growth of a King's party was a real danger." In the end, abdication was generally expected and accepted. One may suspect that the full story has not yet been told. But Mr. Martin's conclusion seems warranted: "The rivets of the halo have loosened on the Crown. If we want to keep the Crown, let us finally dispense with the halo."

JOHN A. FAIRLIE.

University of Illinois.

Public Enterprise. EDITED BY WILLIAM A. ROBSON. (Chicago: University of Chicago Press. 1937. Pp. 416.)

This volume is a symposium of nine sections, with a preface and a summary of conclusions by the editor. The public agencies covered are the Port of London Authority, the Forestry Commission, the British Broadcasting Corporation, the Central Electricity Board, the London Transport Board, the Coal Mines Reorganization Commission, the Agricultural Marketing Boards, and the Post Office. To the chapters on these subjects is added one on the Organization of the Coöperative Movement. The inclusion of this private organization is explained by the editor: the consumers' coöperative movement is "the other great alternative method of producing and distributing goods and services without profit to the producers."

Finding adequate justification in the tendency of things, Mr. Robson

declares flatly: "The rise of the public service board as a new type of concern for operating, organizing, or regulating industrial activities is the most important innovation in political organization and constitutional practice which has taken place in this country during the past twenty years. . . . Suddenly they [boards] have become all the rage. Politicians of every creed, when confronted by an industry or social service which is giving trouble or failing to operate efficiently, almost invariably propose the establishment of an independent public board. . . . It may be recalled that the Bill setting up the London Passenger Transport Board was introduced into Parliament by a Labour Minister, continued by his Liberal successor in office, and piloted through its final stages by a Conservative Minister of Transport." When it is remembered that the public corporation has appeared in widely different places and amid varied circumstances in Western civilization, this brief summation has "a world of meaning" for economists and political scientists who reject the categorical imperative that we must have our whiskey straight or not at all.

The several chapters are done competently and in the scholarly tradition, if with a certain tenderness for the Fabian conception of things. The text is mainly descriptive and contains invaluable information on these agencies and the policies involved in their operation. Students of government and economy everywhere will be grateful to the authors for their clear and orderly exposition of British theory and practice in respect of public enterprises.

Americans, in particular, may draw from these pages fundamental data for comparison with similar undertakings in the United States. For instance, the milk commissioner in Connecticut and the Secretary of Agriculture in Washington can here discover their own problems and troubles, with variations, as handled by British agricultural marketing boards. Again, those Americans who are seeking some program for coöperation between private electrical utilities and utilities publicly owned can now find out "how the British do it." The present reviewer is a little bit disappointed because the volume does not give more precise information relative to the effect of the British grid on electrical rates for consumers and on the development of public ownership and operation. But that is a private grievance of no immediate pertinence. Again, politicians in New York City wrestling with the problem of transit unification may learn lessons from the history of the London Transport Board, including methods for incorporating a lot of "water" in the capitalization. Chairmen McNinch, now engaged in trying to untangle the radio snarl, may find light on America's radio troubles in the experience of the British Broadcasting Corporation. And so on.

No doubt many politicians and students will continue to talk glibly and volubly about the absolute opposition between public and private, gov-

ernment and economy, planning and no planning, the individual and society, collectivism and individualism—absolutes that do not exist outside of imaginations. But this volume will be helpful to everyone who tries to distinguish between throbbing and knowing and fain would look upon the tendencies of things with clear eyes.

CHARLES A. BEARD.

New Milford, Conn.

The Empire in the World; A Study in Leadership and Reconstruction.

EDITED BY E. THOMAS COOK. (London: Oxford University Press. 1937. Pp. x, 323.)

This volume is about as intelligently-written and serviceable a conspectus of the British Commonwealth and its problems today as can be found in any work of comparable brevity. It is a symposium, under the editorship of E. Thomas Cook, assistant editor of the *Empire Review*. The first and last sections of the book, dealing with the foreign relations and policies of the Empire, were contributed by Sir Arthur Willert, formerly chief of the press department of the British Foreign Office. The second part, surveying the constitutional developments of recent years, was written by B. K. Long, until recently editor of the South African *Cape Times*. The section on the economic problems of the Empire was contributed by H. V. Hodson, editor of the *Round Table*. Notwithstanding this diversity of authorship, unity has been secured, partly through careful planning, mainly from the basic community of viewpoint of the writers—in general, the viewpoint of the *Round Table*. The attitude is successor to that of the Imperial Federationists of a generation ago. It insists that the British Commonwealth is a community of interdependent nations, with common problems calling for discussion and settlement, and contrasts markedly with the various nationalist viewpoints, which are essentially isolationist and look no further than the boundaries of the particular nation concerned. An appreciation of this antithesis is essential in approaching any discussion of the British Commonwealth, and will explain diverse estimates of the importance of the present volume.

In this analysis of the contemporary international scene, Sir Arthur Willert argues that all the British "nations" have a vital and common interest in developments, particularly in view of the growth of anti-democratic movements, and the fact that the nations of the Commonwealth are committed to democracy as the essential basis of their organization and relationships. This latter point seems worthy of his emphasis, when we recall that approximately one-ninth of the world's nation-states today are British. The arrangement of Mr. Long's discussion of post-war constitutional evolution is chronological, although the chapter headings are topical, indicating the salient developments as they occur. This is an

excellent brief survey, with no space wasted on sentiment—nor, it may be added, any inkling of the background of opportunism and hokum (particularly in Canada) from which many of the leading precedents of this period emerged. The conflicting attitudes in the Dominions upon constitutional issues, and the consequent variations in action upon such matters as the Statute of Westminster and the recent abdication act, are explained succinctly. The clear exposition, in the final chapter, of Mr. Balfour's oft-ridiculed distinction between "status" and "stature" should afford solace to inhabitants of the mother-country. Doubt may well be expressed, however, as to whether (since 1924) the king has the constitutional right to refuse a dissolution requested by a premier (p. 109), or whether the demands of Dominion autonomy, and the perennial effort to reconcile Austinian theory with the facts of Commonwealth relationships, can be solved by amendment of the Statute of Westminster (p. 90). Could the latter problem be aided by taking the view that what was in its inception an act of a sovereign Imperial legislature (Keith) became transmuted, in its journey among the Dominion parliaments, into a multi-lateral treaty among equal states?

In the third section, on "Economics of the Empire," Mr. Hodson attacks what has been the most persistent of all imperial problems during the past forty years. Although the international scene has changed markedly, the basic problems are as Joseph Chamberlain found them—the reconciliation of British foreign with intra-imperial trade interests, and of Dominion economic nationalism with an imperial economic outlook. The contemporary argument briefly is: "It is plainly preferable economically that the unit of greater self-sufficiency should be as wide as possible. The British Commonwealth will be better off if the greater self-sufficiency that is forced upon it is Commonwealth-wide than if it is restricted to the borders of each member-nation" (p. 247). This implies a common plan among the British nations, based on "the combination of economic specialization with the maintenance of liberal conditions of Empire trade." The crucial obstacle, however, is indicated by the author in his expression of regret that Imperial Conferences are mere occasions for tariff bargaining on a nationalistic basis.

The final section of the book, by Sir Arthur Willert, dealing with Commonwealth foreign policy, includes a succinct analysis of post-war efforts to attain international stability, in which the rôle of American policy in "the sequence of events which link the Abyssinian fiasco with the refusal of the United States to enter the League" is at least indicated. The situation of the British nations and the conflicting schools of thought which have robbed British foreign policy of consistency and vigor are analyzed. The argument is for collective action by the democracies in international affairs, and against a British policy of drift which threatens

greater ultimate danger than that which may be postponed at a given moment. A noteworthy feature is the emphasis upon the need for better support for British news service in the face of organized, subsidized foreign competition. While a government-controlled news agency is deprecated, aid such as through cheaper wireless rates is urged for Reuter or a similar agency.

The aim of this book is to promote an awareness of the need for greater coöperation in policy and action among the British nations. The method is to survey the facts and indicate the salient developments with their evident conclusions. Readers in Britain and the Dominions will doubtless be stimulated or left cold in accordance with their predispositions. To others, the volume affords a most useful exposition of the relations and problems of, in many respects, the most instructive group of nations in the world today.

A. GORDON DEWEY.

Brooklyn College.

Regeringssättet i den Schweiziska Demokratien. BY ELIS HÅSTAD. (Skrifter utgivna av Statsvetenskapliga Föreningen i Uppsala. VI. 1936. Pp. xli, 735.)

The Constitutions of the United States and Switzerland Historically Analyzed and Compared. BY M. ANN JOACHIM O. P. (Fribourg. 1936. Pp. vii, 180.)

In the extensive bibliography appended to his *Constitutional Government and Politics*, Professor C. J. Friedrich refers to the careful Swedish analysis of the Swiss referendum made by Professor Axel Brusewitz of Uppsala University. Published by the Swedish department of justice in 1923, this treatise is perhaps as thoughtful a presentation of the subject of direct popular action within a constitutional framework as has appeared anywhere. It is unfortunate that the fact that it is available only in a little known language has prevented wider recognition of the work.

The same must be said of another study of the government of Switzerland presented recently as a doctoral dissertation at Uppsala by one of the students of Professor Brusewitz, Elis Håstad. The result of three years of research at Bern, Håstad's book on the Swiss executive is by far the most able and comprehensive account of the Federal Council and government by commission that has been published. Its 692 pages of text give a full and interesting picture of Switzerland's unique plural executive.

Docent Håstad's book is divided into four main parts. In a brief section of 31 pages, the author traces the historical background of the *Bundesrat* and its constitution in 1848. Part two (32-318) outlines the historical development of the Federal Council from that date to the close of 1935.

Elections, personalities, and party battles are discussed in detail, and the contemporary press, memoirs, and parliamentary debates are cited in profusion. An extensive panorama of the Swiss political scene is here presented. In the third part (319-541), the powers of the executive are reviewed, its inner organization and actual operation discussed, and its composition further treated. The last section (543-692) is devoted to the relationship between the executive and the legislature, the referendum, the political parties, and other questions, including proposals for reform. The treatment as a whole resembles that of American and British scholars more than do the heavier, legalistic approach of many Swedish and German academicians. Håstad's journalistic experience has stood him in good stead, and his book is readable as well as authoritative. A comprehensive bibliography follows the introduction, and appendices include data on referenda, departmental distribution among members of the *Bundesrat*, all of the elections to the council and the presidency, and the fifty-six gentlemen who have sat as members since 1848. While it is impossible here to present an adequate idea of the wealth of material embraced in this study, a few facts of interest revealed by Docent Håstad may be mentioned.

Most of the points briefly touched upon by Professor Rappard in his recent little volume on Switzerland are here treated in detail. The growing power of the Swiss executive is indicated by a mass of evidence. Like Rappard, the author finds the chief explanation for this in the great stability of the *Bundesrat*, the average length of service in the same being nearly twelve years. The character of its membership lends further support to this thesis. Out of the fifty-six who have been councillors, only two lacked parliamentary experience. Forty-two have been members of cantonal governments, and of the fourteen without such experience no less than twelve were jurists. Most of the members have been important party leaders, and the government therefore enjoys strong support in the legislative body. Their administrative functions and expertness in the performance of the same likewise serve to enhance the prestige of individual members of the Council. After considering the degree of initiative exercised by the executive in legislation, the party relationship existing between the two branches of government, and the degree of responsibility which is felt by the one to the other, Håstad raises the question whether one might not be justified in classifying Swiss government of today as a type of parliamentarism rather than the usually accepted characterization.

The presidential office in Switzerland is also portrayed in a somewhat different light from the "President of no Importance" described by W. D. McCrackan many years ago. Considered separately, the powers of that office are so slight as to afford some justification for the usual appraisal. Actually, however, the Swiss presidency is not quite the insignificant

office it has been painted. The president has often represented the government in important political debates. Since 1914, the prestige of the office has increased. Prior to that time, the presidency derived its chief significance from the connection with the political department. When that condition ceased, the titular head of the republic came to be respected for other reasons, and today his office is the most distinguished open to political striving in the country. As such, it is sought after as the crowning reward of a long career of public service, and as such it also commands in high measure the respect of the Swiss people.

One other point brought out by Håstad may be mentioned in discussing another recent book on Switzerland. In his *Notre Grande République Soeur* and other works, Professor Rappard has stressed the familiarity of Swiss political leaders with the American constitution and the considerable extent to which they were influenced by our constitutional and political development in preparing their organic law. Earlier Swiss writers have also done this, and Americans have been happy to acknowledge this indebtedness. In her monograph, Sister M. Ann Joachim likewise brings out how Swiss statesmen were influenced by the American and French constitutional systems, which, she says, "must be traced."

No one will disagree with that assertion. At the same time, Håstad's book repeatedly emphasizes that the Swiss constitution is much more of a native document than has often been recognized and, in the opinion of the reviewer, this point is well taken. While the Swiss solution of bicameralism probably was influenced by American practice, and possibly also the distribution of authority between the federal government and the cantons, that is about all that was copied—if that much. As a matter of fact, bicameralism was really the only feature of the 1848 constitution which was novel to the Swiss (not considering the two-chamber legislature of the Helvetian Republic). Practically everything else had been tried before. The Swiss organic law was builded upon a native foundation. Political theory played little part in the deliberations of its framers. Rousseau, Montesquieu, Constant, and other names so popular upon such occasions were hardly mentioned in the Swiss constitution-making. Age-old tradition, plus much experimentation, was more important. With few exceptions, the governmental institutions established were adapted from the Swiss cantons rather than imported from abroad. Just as at Philadelphia it was the state constitutions of the Revolutionary period and the Articles of Confederation that formed the chief basis for what the nation is now celebrating—just as Madison stated that the new union consisted less in the addition of new powers than in the invigoration of already existing powers—so the Swiss drew mostly from their own past experience, which, as is well known, was quite ample for such purposes in most instances.

The dissertation of Sister M. Ann Joachim, which was submitted at

Fribourg in 1936, is a less pretentious undertaking than that of Docent Håstad and is based almost entirely on secondary sources, most of which are familiar to the student of Swiss government. As she states in her introduction, however, "the works described and the majority of the source material used are either in the French or German language and consequently not available for the American reader." The contents of the book also are indicated in the introduction. "It endeavors to sketch the governmental history of both countries (Switzerland and the United States) up to the adoption of the respective constitutions in a summary way; it shows the difficulties both countries encountered at the time of the framing, adoption and ratification of the respective constitutions; it then goes into the divisions of the governmental machinery, describing the organization and powers of each of the three departments, and concludes with the governmental problems solved since the adoption of the constitutions and the various amendments thereto, not forgetting the important institutions of direct legislation, i.e., initiative, referendum, and recall." In seven brief chapters, comprising 115 pages, this is done well, even if "the present undertaking" does not go so very far "beyond all these other efforts" (to compare Swiss and American constitutions). A bibliography of twenty-one pages and a translation of the Swiss constitution "as revised to January 1, 1936," are welcome aids to the student.

ERIC CYRIL BELLQUIST.

University of California.

Political Behavior; Studies in Election Statistics. By HERBERT TINGSTEN. (London: P. S. King and Son. 1937. Pp. 231.)

The author has provided a very critical analysis of the available statistical material regarding the electoral participation and political attitudes of voters in various countries classified by sex, age, and occupation. He is particularly careful about arriving at a meaningful classification of occupations. In addition, data are presented on the relation of the following devices or conditions to voting behavior: compulsory voting, popular law-making, urban and rural environments, local elections, and systems of representation. Particularly valuable are some of the Swedish figures, which are made available in English for the first time.

On the basis of a careful marshalling of the evidence, the author has formulated a few "laws" of political behavior. One is the so-called law of dispersion. According to it, the dispersion (the differences) in regard to participation in an election, or within a certain group, is smaller the higher the general participation is. This rule is of importance in analyzing the effect of a high or low poll upon the final result, and a failure to recognize it has led a number of political scientists into false theorizing. Another rule is the "law of the social centre of gravity." In regard to social groups,

the electoral participation within the group rises with the relative strength of the group in the electoral district. In other words, the attachment of a particular group to the party which on the whole may be regarded as representing the group most closely rises with the strength of the group within the area. While these laws may not be startling, they are sound and constitute a beginning of a scientific comparative politics.

The book does not make easy reading, but the job of translation has been well done. The author has not tried to enliven his account with case histories; and convenient summaries and an index are lacking. Students of democracy and election administration will, however, find the volume well worth while.

HAROLD F. GOSNELL.

University of Chicago.

The War and German Society; The Testament of A Liberal. BY ALBRECHT MENDELSSOHN-BARTHOLDY. (New Haven: Yale University Press. 1937. Pp. xiv, 299.)

This work is one of the monographs in the German series of the Economic and Social History of the World War, of which James T. Shotwell is general editor. The author is one of the victims of the National Socialist Revolution, before his exile well known as the director of the Institut für auswärtige Politik, in Hamburg, and later as lecturer at Balliol College, Oxford.

In the editor's preface, homage is paid to the author's measured accent, to his fundamental objectivity combined with "the clear personal note of one who could rise above the warping prejudices of his time," to reticence and silences "bearing a truer witness to the impact of the War upon the German people than all the strident rhetoric of those who today speak officially for the Third Reich." The incompleteness and unevenness of the chapters, especially those dealing with economics, are the result of various circumstances. The author's sudden death left an unfinished manuscript. A great deal of the subject-matter calling for examination was withheld. Finally, a changing outlook of the post-war period had shifted the focus of criticism from the War to the peace treaties and their effects as the more apparent causes of the changes in the social order.

This brings us to the basic thesis of the work, namely, that most of the essential changes in the economic, political, constitutional, and administrative structure of post-war and present-day Germany have their root, not so much in the treaty of Versailles, pernicious as that treaty is admitted to be, but rather in the ever-expanding system of national planning during the ever-lengthening months and years of the war.

The peace-time conception of a measurably just relation between "effort of will" and "result" and the belief in justice as one of the prin-

ciples of life were lost as a consequence of defeat. Faith in providence gave way to belief in luck, in success as the new guiding principle in business and politics. *Suum cuique* was replaced by a full portion of *meum*. Science and industry, already in the ascendancy over the humanities before the War, became the allies of the military and secured the mastery over the national civil service and the administration of the states and municipalities. The conduct of war affairs meant not merely mobilization and preparation in the technical military sense, but totalitarian regulation of business, trade, agriculture, and to a large degree of the spiritual process as well. Political parties of the right and center, manufacturers and high finance, consented to national planning as far as it went as favoring their political ideals and interests. Political parties of the left and labor unions welcomed it as a promising beginning in socialization.

Much more should be said of this stimulating book, but it cannot be said here.

JOHANNES MATTERN.

The Johns Hopkins University.

Post-War German-Austrian Relations: The Anschluss Movement, 1918-1936. BY M. MARGARET BALL. (Stanford University Press. 1937. Pp. ix, 304.)

Professor Ball has written the most informative book in English on the *Anschluss* movement. A sober presentation of the facts is supplemented by quotations from party leaders and from documents. (A wholly incidental result of her research is that it attests to the high quality of the work done on this subject by the late Mildred Wertheimer, of the Foreign Policy Association.)

When Bismarck forged the German state, the dynastic rivalries of Hapsburgs and Hohenzollerns and the existence of millions of people of non-Germanic stock in the Austro-Hungarian Empire made impossible the inclusion of Austria in a unified Germany. The idea remained latent in the minds of many patriots, and the break-up of the Austro-Hungarian Empire on the principle of self-determination seemed to the demoralized Austrians an opportunity to realize the *Grossdeutsch* program. The German and Austrian constitutions of 1919 both provided for the incorporation of Austria in the new German *Reich*.

The French government, however, could not tolerate a defeated Germany emerging triumphantly from the war with increased territory and population. There were twenty million too many Germans already, growled Clemenceau. In any case, there was no possibility of handing over to Germany the six million German Austrians who had been incorporated in Czechoslovakia, Poland, Yugoslavia, and Hungary; and the potential threat to Czechoslovakia, if by *Anschluss* she were engulfed on

three sides by Germany, was sufficient justification to the French for thwarting the principle of self-determination in this particular. As a consequence, the Allied Powers by various means forbade *Anschluss* without a unanimous vote of the Council of the League of Nations.

The subsequent history of the movement is recounted in accurate detail by Professor Ball. M. Briand's United States of Europe was a pawn in the game against *Anschluss*. This scheme of the Quai d'Orsay was already moribund in 1931 when news of the proposed Austro-German customs union leaked out. The French promptly revived their concept of Pan-Europa, but the Austrians and Germans had a clever answer. They believed in the idea of European economic union, but could not await its slow development. They were therefore proposing a Central European customs union as a preliminary step along the right road. They even planned to include Hungary and France's Little Entente allies in the union.

The inevitable defeat of the customs union plan is discussed elaborately in two chapters and, in a third chapter, the author makes an analysis of the legal issue which went to the Permanent Court of International Justice. The last three chapters of the book give an account of current political maneuvering in Austria, the rise of Italian influence, and the decline of *Anschluss* sentiment in Austria since the Hitler way of life has conquered Germany.

The book is grounded firmly on the documents, and its worth is increased by the inclusion of admirable surveys of the contemporary Austrian press at various stages of the drama. An appendix prints a number of relevant protocols—including the Italian-Austrian-Hungarian protocols of 1934 and 1936—and a large bibliography adds to the value of the study.

HERBERT W. BRIGGS.

Cornell University.

The Profits of War. BY RICHARD LEWINSOHN. Translated from the French by Geoffrey Sainsbury. (New York: E. P. Dutton and Company. 1937. Pp. viii, 287.)

That wealth can be acquired by war as well as by work was doubtless the first lesson of politics. It was perhaps the initial discovery which, in its subsequent elaboration, gave rise to the institution of the state. War-makers first sought plunder. Later they attempted enslavement. Still later, the objective of military violence became annexation and exploitation. On each level, the practice of violence enriches the élite whose activities are of decisive military significance. War does not pay—everybody. But war always pays—somebody.

Richard Lewinsohn has here undertaken to survey through history the successive somebodies who are paid. His chapter headings suggest their

identity: "The Generals," "The Financiers," "The Armament Firms," "The Contractors," and "The Speculators." This work is largely undocumented and is in no sense an adequate sociological analysis of the effects of war upon the distribution of material satisfactions. It is racy journalism, highly readable, suggestive, and sensational. Its closing chapter—"The Struggle Against War Profits"—is a mere sketch of recent legislation in the Western democracies. But the author has brought together a mass of fascinating data which deserves the careful consideration of those interested in broad questions of public policy toward the arms industry and also, of course, of those interested in war profit scandals *per se*. Most of the scandals are here—from Julius Caesar and the feudal baronage through Wallenstein, Marlborough, Wellington, Bismarck, the Rothschilds, Jay Cooke, Ouvrard, *et al.*, to Krupp, Vickers, Morgan, Dupont, and their contemporaries. Some of the evidence necessary for an evaluation of policy is likewise here.

Although Lewinsohn, as a good reporter, indulges in a minimum of interpretation, his work is a wholesome corrective to the common view that war profits are made primarily by the manufacturers of munitions. Early war profiteers were generals and statesmen. The profiteers of today are all entrepreneurs in all branches of economic effort relevant to the prosecution of totalitarian war. Arms-makers, as the author repeatedly emphasizes, seldom "want war." Their trade flourishes better when war threatens than when war comes. "What they want is not war but a precarious peace." Of the thirty billion dollars of war profits which Lewinsohn estimates were realized in all belligerent and neutral countries during the World War, one-third was taken by governments in the form of taxes. In all probability, the bulk of the remainder went, not to the "merchants of death," but to a bewildering multiplicity of other producers. "Julius Caesar's place is now taken by some magnate of the canning trade."

Such a survey necessarily raises more questions than it answers. Is it politically and economically feasible, however morally desirable such a course may appear to be, to attempt to "take the profits out of war" in an age when men will gladly die for causes but will not produce goods and services except for money? Can any clear line be drawn today between war industries and non-war industries? Can the waging of war be removed from the orbit of capitalistic enterprise by legislative fiat without either destroying the foundations of capitalism in general or ham-stringing the economic sinews of "national defense"? Do armaments cause wars, or do wars, i.e., the expectation of violence in inter-state relations, "cause" armaments? Are war profiteers important as determinants of foreign policies leading to conflict, or are they rather the incidental beneficiaries of the game of power politics? Lewinsohn evades such knotty problems. But reflection upon his evidence will suggest that the glib answers cur-

rently given to such queries by pacifists and politicians have little or nothing to do with the case.

FREDERICK L. SCHUMAN.

Williams College.

Legal Machinery for Peaceful Change. BY KARL STRUPP. (London: Constable and Company. 1937. Pp. 85.)

Peaceful Change; A Study of International Procedures. BY FREDERICK S. DUNN. (New York: Council on Foreign Relations. 1937. Pp. 156.)

Professor Strupp's monograph will never be popular with the casual reader. The technical nature of its form and scope promises to provide interest only for the serious student of international jurisprudence. Lamenting the fearful gaps in existing juridical machinery and international law which exclude crucial subjects from the jurisdiction of the World Court, the author proposes the erection of an equity tribunal empowered to apply in such instances "generally recognized principles of international justice such as ought to be law." In case of a conflict of jurisdiction between the Court and the "Permanent Court of International Equity," the presumption is to be in favor of the latter, since the ultimate desire is a "final settlement" of the dispute as a whole, rather than of one of its legal aspects.

The value of the author's suggestions lies not in their originality, but rather in the manner in which he has dovetailed an equity tribunal with all other existing peace agencies. One is continually impressed with his patience, care, and consideration of detail. His plan is presented in the form of a draft convention plus an "International Peace Charter" to be adhered to by the states of the world and to supplement covenants already in force. To clarify each step, he liberally intersperses commentaries and notes in the body of his draft, a mode of presentation which often makes for difficult reading and loss of continuity. Without wishing to detract from the purely juristic value of the work, one cannot help asking whether the imposition of one more pact, one more court, upon the existing world polity, even if possible, without some more fundamental corrections in the realm of *Realpolitik*, holds much hope for a "final settlement." A splendid introduction by Professor Scelle augments the value of the book.

Reliance upon pure legalism is firmly opposed by Mr. Dunn in his eminently realistic volume. Power, its acquisition and preservation, is the keynote of modern foreign policy. It is idle to devise new machinery for peaceful change while failing to "take full account of existing values and attitudes which determine national policies." It is not enough to settle legal differences. Why amend Article 19 of the League Covenant to facili-

tate changes in treaties? Formal treaties are but written expressions of agreements already reached. The first, and clearly the most crucial step, involves the reaching of these preliminary agreements. In the absence of an overwhelming international coercion, this is possible only by methods which do not disturb intricate power relationships. Political and economic considerations lie at the core of international friction: population pressure, demands for raw materials, territorial reallocations, and ethnic aspirations are the basic issues.

Reviewing the arguments on both sides, Mr. Dunn, in most cases, rejects the propositions of the Have-Nots, not so much for lack of merit as for their failure to offer solutions which, while modifying the status quo, will not raise equal or greater power issues. On the positive side, he offers several practical suggestions for peaceful change. Instead of restoring Germany's colonies, might it not be feasible to establish an international protectorate over some agreed region in Africa? This area, made up of contributions by several powers, could be administered and developed by an international commission on which Germany should be adequately represented. As to ethnological problems, it may be desirable to erect an international commission to supervise the government of racial minorities by the victorious as well as the defeated states. The vital issue of raw materials might be resolved by the development of codes of fair practices to protect the interests of consumer nations. An agency similar to that regulating the opium traffic may be the first answer. Of course, much depends upon an increase in international trade, and resort to trade and currency agreements and international credits is encouraged.

To attain these ends, it may be wise not to depend entirely upon existing procedures for peaceful change; diplomatic negotiations, international conferences, conciliation and mediation, and adjudication have been so often advanced for the settlement of *disputes* that they now arouse defensive attitudes in the mind of each nation. Perhaps a less formal approach would be more fruitful. Mr. Dunn proposes the formation of small, efficient committees in each country, made up of outstanding men connected in no official way with government. These committees, in a quiet way and without the spotlight of publicity, could engage in intercourse and lay the groundwork for satisfactory agreements on disputed points. Above all, extreme care to avoid disturbing existing power relationships must be the guiding principle of action.

The political realist will appreciate the clear thinking and hard common sense which permeate the pages of this concise little book. The one criticism that he may express arises out of the author's failure to carry out further his concrete suggestions for positive action.

VERNON A. O'ROURKE.

Union College.

The Press and World Affairs. BY ROBERT W. DESMOND. (New York: D. Appleton-Century Company. 1937. Pp. xxv, 421.)

Dr. Desmond has contributed an important survey of information on international news channels and the foreign press, at a time when widespread interest demanded a discussion of these topics. Strangely enough, the volume is the first attempt in the English language to show in detail, at least by exposition and inference, the complexities involved in efforts to supply the world with news or with "the truth." As Professor Harold J. Laski asserts in the introduction, "if we can get from books of this quality the vital sense of how intricate our problems are, how useless is the search for simple remedies, we shall have set our foot on the right road."

Students of public affairs and of the newspaper press have, indeed, been surfeited for years with simple remedies for problems of the press and its rôle in society. Manifold obstacles to adequate reporting of the news, and the subtle relationships between social systems and the press have been touched mainly by generalizations and scattered accounts.

This volume does not pretend to arrange the facts in support of a thesis. Perhaps it fails to generalize and to comment enough, on the basis of abundant facts and examples included in its pages. It does, however, marshal evidence which will serve as background for an appreciation of the task involved in the gathering of world news. The author has drawn on his experiences as a newspaper man in the United States and in foreign capitals, and on material gathered for a doctoral dissertation for the University of London School of Economics and Political Science. The first four chapters describe the methods employed by foreign correspondents and the conditions under which they work, the development and the interrelationships of the large news-gathering agencies, the importance of transmission facilities, and the political implications in the control of communication agencies. This discussion is supplemented by a brief survey of the limitations imposed on correspondents by governments and powerful interest groups. Three succeeding sections of the volume describe the main news centers of the world and the newspaper press in a score or more of countries.

The total picture is not encouraging. Unhappily, even an able and well-informed correspondent is not generally in a position to report everything that he would like to include in his dispatches. Nor is he allowed, with calm mental detachment, to take his time, ignore pressures at home and abroad, neglect compromises which will determine whether he shall report something or nothing, or forget the peculiar "news-mindedness" which tradition or ideology has developed in his home country.

It is difficult to quarrel with a recital of world-wide news-gathering methods and developments, unless one chafes at a newspaperman's inability to discover solutions to his intricate problems. Dr. Desmond believes that the foreign correspondents have made a good record despite

the difficulties involved in their tasks. His work is not, however, an apologia for news-gatherers or for nervous publishers in the United States whose viewpoints are affected by incipient threats "to the freedom of the press" or to profits. All in all, the volume represents a serious attempt, documented and clearly written, to submit evidence preliminary to drawing decisions or arriving at solutions.

RALPH O. NAFZIGER.

University of Minnesota.

BRIEFER NOTICES

AMERICAN NATIONAL GOVERNMENT AND POLITICS

In a year commemorating the one hundred and fiftieth anniversary of the framing of the Constitution of the United States, a recent number of the Johns Hopkins University Studies in Historical and Political Science (Series LV, No. 2, 1937) is of special interest. This issue of the Studies is a treatise on *The History and Development of the Fourth Amendment to the Constitution of the United States* (pp. 150) by Nelson B. Lasson, of the University of Maryland. The text is divided into four chapters, the first of which shows that "the right of the people to be secure in their persons, homes, papers and effects, against unreasonable searches and seizures . . ." was not an invention of English jurisprudence, in spite of the well-known maxim that "an Englishman's house is his castle." The fundamental idea embodied in the amendment is, on the contrary, found in Biblical literature and in the Roman law. In the second chapter, the use of and the opposition to writs of assistance in the colonies is described. The third chapter is devoted to the demand for and the adoption of a bill of rights to the Constitution, with special emphasis upon the formulation and approval of the Fourth Amendment. An interesting point in this chapter is the evidence that the House of Representatives once rejected the Amendment as it now reads. It was subsequently restored in its present form, however, by the committee on arrangement and finally adopted by both houses. The last chapter of the book is concerned with the interpretation of the Fourth Amendment by the Supreme Court of the United States. In the earlier years of our national history, few cases involving the amendment reached the Court. But with the extension of the criminal jurisdiction of the United States, especially in cases of sale of narcotics and intoxicating liquors, such cases multiplied. The treatise is well annotated and fully documented and includes a table of cases cited.

—F. E. HORACK.

Even casual observers have long been aware of the need for reforming the system of financial control in our federal government. In *The Ad-*

ministration of Federal Finances (Brookings Institution, pp. 71), Daniel T. Selko proposes to present "for impartial public consideration" the fundamental differences between the pertinent recommendations of the Brookings Institution and the President's Committee on Administrative Management. His outline of the existing organization and procedure in Part I is necessarily brief, but is clearly presented and will be useful to the uninitiated. A glossary of financial terms is helpfully appended. After pointing out several important matters of agreement between Brookings and the President's Committee, Mr. Selko undertakes an able but unconvincing defense of the Brookings view on the controversial issues. Several telling criticisms of the President's Committee report indicate that all problems would not be automatically shelved by inaugurating the Buck-Brownlow-Merriam system. Yet, in developing his argument, the author at times slights the strongest points in the opposition brief. For example, his summary of the "principal defects" in the expenditure control system (pp. 31, 50) completely ignores one of the chief points upon which the President's Committee proposal to transfer the control function from the independent General Accounting Office to the Treasury is based, namely, the costly impact of Comptroller-General rulings upon administrative action. Students of financial administration will find Mr. Selko's analysis an important, but not the final, pronouncement upon the Brookings-President's Committee imbroglio.—JOHN McDIARMID.

In *The National Debt and Government Credit*, Paul W. Stewart and Rufus S. Tucker, assisted by Carolyn Stetson (Twentieth Century Fund, Inc., pp. xviii, 171) are responsible for the factual material upon which the report of the Committee on Government Credit of the Twentieth Century Fund is based. The report contains seven chapters dealing with the nature of government credit and its history in the United States, government policies and credit, government receipts and expenditures, a comparison of debts and expenditures of the United States, Great Britain, and France, the question as to whether or not the present debt is a menace, and a final chapter on the future of the government debt. Space is lacking to treat these topics in any detail. Suffice it to point out that the historical and factual material involved is fully and, with one or two minor exceptions, accurately covered. Greatest interest, perhaps, attaches to the conclusions of the Committee. The Committee finds that the government credit is at present sound, but feels that a balancing of the budget plus debt reduction in the suggested amount of \$1,000,000,000 a year is an urgent necessity to maintain sound credit in the years to come and to prevent inflation—which is a virtual repudiation of part or all of the government's debt, depending upon how far it proceeds. One member of the Committee, Miss Joanna Colcord, while voting for the general

recommendations, emphasized the fact that she was not in favor of a reduction of expenditures, particularly relief expenditures, to accomplish the ends recommended by the Committee. With the heavy burden of taxation already borne by the American people, this attitude will scarcely appeal to the average taxpayer. In any event, one thing is clear. Budget-balancing with debt-reduction, whether through increased revenue or decreased expenditure, is essential to the maintenance of sound government credit in the United States.—FREDERICK A. BRADFORD.

"There is less difficulty in finding a good reason for revising a textbook on American government than there is in justifying a first edition," says Claudius O. Johnson in presenting a 1937 revision of *Government in the United States* (Thomas Y. Crowell Co., pp. xii, 735). He follows the arrangement of his 1933 edition (see *supra*, Vol. 28, p. 336, April, 1934). This topical ("functional") treatment is brought up to date by taking account of "new" New Deal agencies and recent Supreme Court decisions. The section on local government is expanded and one is added on pressure groups. An interesting feature is frequent references in the footnotes to other texts and to *Time* magazine. Some passages have not been brought into conformity with revisions made in others, but the work has been thorough and few important changes have escaped notice. The author fulfills adequately his desire to present "only an introduction to the subject."—ROBERT W. McCULLOCH.

What one government agency is doing about the training of administrators is now available in *Training Program for Internes in Public Administration and Assistants in the Personnel Department* (Tennessee Valley Authority, pp. 43), compiled by members of the Personnel Department of the Tennessee Valley Authority. A statement of general principles is followed by a detailed description of a program of departmental contacts and of training assignments. The reading list for internes is included, as well as a statement of reports to be prepared. Teachers of public administration should find the syllabus useful as a source of suggestions, and as a description of the training in administration now provided by the Tennessee Valley Authority.—H. W. STOKES.

An Annotated Bibliography of Robert M. LaFollette; The Man and His Work (University of Chicago Press, pp. xi, 571), by Ernest W. Stirn, is an excellent piece of work. It includes material on the early period of LaFollette's life, covers the congressional record of his twenty-six Washington years, and supplies an index of the *New York Times* and *Tribune*. We are furnished an index to periodical literature, 1900-1936, and a fine collection of secondary source materials. The book should prove decidedly

useful to all students of the period in which LaFollette lived.—PAUL M. CUNCANNON.

STATE AND LOCAL GOVERNMENT

In *The Provisional Appointment in City Civil Service Systems* (University of Pennsylvania Press, pp. v, 130), Miss Reinhold has contributed a local case study of the type needed if we are to make valid generalizations not alone in regard to personnel management, but in other phases of administration. Although the author entitles her study "Provisional Appointments in City Civil Service," she covers, as a matter of fact, various aspects of employment administration running from examinations to dismissals and retirement. It may be emphasized, however, that the treatment of these other phases is of an impressionistic character and not supported by data. This does not imply that the opinions expressed are not of use and significance. The author refers to the oft-repeated criticism of the administration of civil service laws to the effect that the abuse of the provisional route into the civil service is one of the most popular means for undermining and evading the merit system. The data presented go to show that from sixty to sixty-five per cent of permanent appointments were originally provisional appointees in the years 1932 to 1935, inclusive. Several competent witnesses in addition to the author express the opinion that in non-depression years the percentage will approximate ninety per cent. It appears that the Civil Service Commission does not avail itself of the device of reappointment after the stipulated three-month period, but is quite regular in seeing to it that examinations are punctually given, and further, that the provisional examinees usually stand at the top of the list. The methods for bringing about this much-to-be-desired result from the viewpoint of the patronage-mongers are relatively simple, in that the examination is based on the duties of the position concerned, and that the personality factor is so weighted that the appearance of regularity can be maintained. Then, too, in order to create vacancies, "voluntary" resignations are called for at the time of the turn-over in administration, or an eligible list is nullified at the end of a year instead of two years, the standard requirement. Miss Reinhold is quite justified in asserting that the administration of this law shows how one may have civil service and still fail to have a merit system. In view of her indictment, however, she is hardly justified in breaking a lance for the Commission as she does at several points in her treatise. It is difficult to see how one can say a good word for a "dependent Commission which must take orders from the comptroller and the mayor, to say nothing of an infinite number of small-time politicians." In one chapter, useful information is brought together concerning the handling of provisional appointments in other cities, as well as ratios of provisional

appointments to permanent appointments. In closing, the reviewer would reiterate the hope that those of us interested in administration should stimulate more and more studies of this sort. They are necessary if we are to have supporting data for many of the generalizations that are being made concerning various phases of public administration.—WILLIAM E. MOSHER.

State Control of Local Finance in Oklahoma (University of Oklahoma Press, pp. xiv, 281), by Robert K. Carr, is distinctly superior to many studies of intergovernmental relations in that it is more than an analysis of legal provisions contained in statutes and court decisions. While the author has necessarily drawn heavily upon statutory and case materials, he has made substantial use also of published reports and unpublished records of various governmental agencies, the whole being enlivened by a liberal sprinkling of data obtained from questionnaires, interviews with public officials, newspapers, and miscellaneous publications. These latter sources have made possible the presentation of an excellent picture of state control as it actually operates in the everyday administration of local finance. The discussion of historical background is reduced to a minimum, the study dealing almost entirely with conditions as they existed from 1931 to 1935. Analysis of the various methods and agencies of state control in Oklahoma reveals that the system is entirely lacking in any single underlying purpose. Professor Carr suggests a plan whereby the legislature would place certain limitations upon the power of local units to determine financial policy, while the *administration* of the fiscal program undertaken by the local authorities within those limits would be supervised, as far as central supervision is considered desirable, by a single state department of local finance instead of by numerous different agencies as at present. He opines, however, that any satisfactory program of state supervision of local finance must be preceded or accompanied by a reduction in the number of local governmental units and a revamping of the state tax system. Although at some points the style is a bit ponderous for the general reader, for the most part the book is very interestingly written, the author having succeeded in presenting in an engaging manner subject-matter which, under a less skillful hand, might easily have become tedious and dull. The book will rank among the most valuable of the recent studies of state-local relations.—CLYDE F. SNIDER.

While Allan G. Gruchy's *Supervision and Control of Virginia State Banks* (Appleton-Century, pp. 327) deals particularly with public regulation of banks in Virginia, enough comparative statistics are introduced to make the volume of value to those who have a general interest in this problem. The comparisons are also sufficient to show that Virginia may

profit from the better regulatory practices of other commonwealths. The book falls into distinct parts: (1) development of banking regulation in Virginia, 1780-1936; (2) the legal basis of regulation; and (3) a critical analysis of present regulatory methods of the banking division of the state corporation commission. While the state regulatory agencies perform efficiently the routine administrative functions of bank examination and report, they fail, as Mr. Gruchy points out, in an aggressive, positive attack upon state banking problems. Failures and mergers of state banks show an unhealthy condition and the need for adequate regulation of the Virginia unit banking system. The author believes that improvement along this line can be had by: (1) setting up an independent banking board, with full jurisdiction over state banks, and (2) organization of a banking department with expert personnel and in proper divisions for performing regulatory functions.—J. E. PATE.

E. Glenn Callen's *The Administration of Nebraska's Labor Laws* (Bulletin No. 4, State of Nebraska, Lincoln, Nebraska, pp. 80) is a study of the state's industrial legislation. The suggested sub-title, "Labor Legislation in an Agricultural State," is probably more appropriate, as there is greater emphasis on the explanation and analysis of the law than on its interpretation and application by administrative agencies and the courts. The first chapter is devoted to the Nebraska department of labor—its history, powers, and duties. Subsequent chapters discuss the various types of labor legislation, including regulation of hours of work and employment conditions, child-labor legislation, organized labor and the law, unemployment legislation, and workmen's compensation. The last subject is treated at length in six chapters which constitute over half of the treatise. In a final chapter, the author concludes that there are several meritorious features of Nebraska's labor laws—their sound constitutional basis, high standards of child-labor regulation, the workmen's compensation system, and the recently established (1935) compensation court. He also asserts that the main shortcomings are the restricted application and inadequacy of the compensation law, insufficient supervision of workmen's compensation insurance, and the inadequacy of labor laws pertaining to women.—ALEXANDER T. EDELMANN.

Elwyn Arthur Mauck's *Financial Control in the Suburban Areas of New York State* (New York State Commission for the Revision of the Tax Laws, pp. xvii, 270) is an outstanding contribution on the financial problems of suburban governmental units. The study constitutes the tenth report of the New York Commission. These reports have for many years been among the leading research efforts in the United States on state and local financial problems. Mr. Mauck's study is also a model doctoral

dissertation in this field. Of the seven metropolitan areas in New York State, the most intensive analysis was given to the Buffalo and Rochester regions, with minor consideration for smaller areas such as Albany-Schenectady-Troy, Binghamton, Syracuse, and Utica. Counties, cities, villages, towns (townships), school districts, and special districts were included. The greatest problems were found in the town governments and their related special districts. Excellent features are chapters upon charter reform under the county home rule amendment, and emphasis on state supervision and control of (a) indebtedness and (b) subdivision. A state municipal finance commission is recommended to administer and allocate over-all debt limits among the various units. The volume contains twenty-seven tables, five appendices, seventy-eight charts, fifty-one maps, and an index.—EDWARD W. CARTER.

In a legalistic study, *The Delaware Corporation* (No. 25 in the New Series of Johns Hopkins University Studies in Historical and Political Science, Johns Hopkins Press, 1937, pp. 199), Russell Carpenter Larcom discusses the reversal of legislative policy in 1899 after which the attitude of Delaware became "one of willingness to enact the changes which business men have desired." He covers the relationship between the certificate of incorporation and the law, the changes permitting holding companies, the expanding powers of directors over the corporation, and over the rights of stockholders and creditors. A statistical summary leads to the conclusion that Delaware has been very successful in attracting the trade and should bear the lion's share of responsibility for what is good and bad in modern corporation practice.—HARVEY PINNEY.

Excellent material has been collected by Bower Aly for *Unicameral Legislatures* (Lucas Brothers, Columbia, Mo., 2 vols., pp. 220 each). The first volume contains a good bibliography and articles by competent authorities, prepared especially for this eleventh annual debate handbook of the committee on debate materials and interstate cooperation of the National University Extension Association. The second volume reprints excerpts from various sources which provide additional information concerning bicameral and unicameral legislatures. The volumes should interest many besides the debaters for whom they are primarily designed.—HOWARD WHITE.

FOREIGN AND COMPARATIVE GOVERNMENT

Recently, there have appeared several textbooks in the field of European government that have been characterized by their brevity. Some have dealt with the governments of five or six countries, while others have been studies of the institutions of but one state. This emphasis on

brevity sometimes results unfortunately, however, for such textbooks often contain only superficial and generalized information that renders them of little service to potential users. Perhaps their authors, of necessity, are unable to present information beyond that contained in sources already easily available. In his *Government of England* (D. Van Nostrand Company, pp. x, 326), R. K. Gooch avoids some of the sins of omission which limited space inevitably brings and succeeds in presenting an accurate and balanced, although limited, account of British government. Among the commendable features of the book is the author's attempt to secure a balance between a mere descriptive account of English institutions and a discussion of principles underlying British political practices. Any attempt to supplement the *how* of government with the *why* is desirable. Notwithstanding its good points, this book has serious limitations. The laudatory treatment of British institutions might, in some instances, better have been tempered by judicious criticism. The author states that this is a textbook written to be "helpful to American college and university students." Yet the book "does not incorporate the results of any special studies or particular researches." Perhaps because it does not, the value of the work is lessened. The reader will not find a great deal of information about such important problems as, for example, those of delegated legislation, local government finance, recent tendencies in local government personnel practice, or recent proposals for reform of the House of Lords. Any text on English government should include more than a summary discussion of these matters.—HARLOW J. HENEMAN.

Historians of parliamentary procedure will find a valuable new source of information in *The Liverpool Tractate; An Eighteenth-Century Manual on the Procedure of the House of Commons* (Columbia University Press, pp. xcii, 105), edited with an introduction by Catherine Strateman. Few clues are available as to the authorship of this hitherto unpublished manuscript, but its composition can be dated as of 1762-63. As pointed out by the editor, a number of treatises on the procedure of the British Parliament were published in the late sixteenth and early seventeenth centuries, and again in the nineteenth century, but few such treatises are extant for the long intervening period. The publication of this manuscript thus fills a distinct gap in the literature of the development of parliamentary procedure. This treatise obviously was written by a man of long experience in the work of the House of Commons, and gives much information, particularly on the functioning of committees, that could not possibly be adduced from the *Journals* and other available sources. Even more valuable than the document itself is Miss Strateman's carefully compiled bibliographical essay on the early treatises on Parliament. This

is a job that emphatically needed to be done. Anyone who has occasion to consult these treatises will certainly be confused by their anonymity and plagiarism, and will appreciate the guide-posts furnished by the present work. It is regrettable that Miss Strateman did not make this bibliography still more complete by referring to the materials on parliamentary procedure surviving in the writings of Sir John Eliot, Edward and John Chamberlayne, and Guy Meigs. There is little to criticize in Miss Strateman's essay on the development of procedure, except to point to contradictory statements concerning the frequency of committee of the whole in the early seventeenth century, and to take issue with her classification of the previous question as a method of destroying a motion without actually voting it down.—JOSEPH R. STARR.

The third and final volume of Ian Colvin's *The Life of Lord Carson* (Macmillan Co., pp. 463) begins with the outbreak of war. Carson and the Ulstermen agreed that "England's difficulty is not Ulster's opportunity": the Ulster Volunteers joined the British army, and the Home Rule Act was postponed until the end of hostilities. Carson showed the same energy and determination in his war-work as in his fight against home rule, finally resigning from the cabinet in protest at Asquith's procrastinations and compromises and at the abandonment of Serbia. (The author traces his important share in bringing about the fall of the Coalition and the elevation of Lloyd George to the prime ministership in 1916). He became the leader of the parliamentary opposition and worked openly to oust Asquith from office, since with him as prime minister "it is absolutely impossible to win the war." In December, 1916, his intervention was decisive: he persuaded the hesitant Bonar Law to transfer the Conservative support to Lloyd George. The following chapters describe Carson's work at the Admiralty, his dismissal in 1917 because of his opposition to Lloyd George's interference there, and the endless and abortive negotiations between Ulstermen and Nationalists for a settlement of the Irish question. In the interest of the prosecution of the war, Carson persuaded Ulster to agree to Irish home rule providing that their own six counties were excluded, a solution, however, unacceptable to the Nationalists. Carson refused to support, but did not oppose, the act of 1920, because, while he was opposed to home rule in any form, the exclusion of Ulster was preferable to the act of 1914. The conclusion of the 1921 treaty between Sinn Féin and the Government was followed by outrages in the vain attempt to coerce Ulster into joining the Irish Free State. Carson was convinced that Lloyd George tacitly approved; and therefore he took a prominent part in the maneuvers which led to the revolt of the Conservatives and the fall of Lloyd George.—LENNOX A. MILLS.

The student of comparative government anxious to learn about contemporary German politics and institutions can hardly complain any longer of a shortage of books on the subject—descriptive or analytical, scholarly or journalistic, sympathetic, studiously fair, or frankly hostile. Although the "historical background" in most of these plays a certain rôle, a short historical evaluation of the whole post-war period still was lacking. Frederick L. Schuman's most recent contribution on Germany—*Germany Since 1918* (Henry Holt and Co., pp. xii, 128)—fills the gap most effectively. In this latest addition to the *Berkshire Studies in European History*, Professor Schuman, in three tightly-packed chapters, tells the story of the incubation, childhood, and decrepitude of the Weimar Republic and of the sequel since 1933. In his selection of historical data, he is guided by a two-fold assumption: "that transition periods of crisis are worthy of more detailed presentation than periods of normalcy," and, moreover, "that the *raison d'être* of all politics is competition among sects, classes, parties . . . for the control of the coercive and distributive machinery of the state as a means of changing (or preventing changes in) prevalent apportionments of satisfactions" (p. x). He is also pleasingly frank in labeling his own historical "bias" as that of a "liberal." On the basis of these several premises, Mr. Schuman presents a pithy and dramatic account of these portentous years, in which this reviewer cannot detect any major flaws. One may disagree here and there with a particular accent or shade of interpretation. One may also feel that the comprehensive label "liberal" is somewhat overworked when applied to the conservative Professor Hoetzsch, the Catholic leader Dr. Brüning, and the Weimar constitution. One would like to know Mr. Schuman's source for the statement that Ebert, Scheidemann, and Noske approved the acquittal of the murderers of Liebknecht and Luxemburg (p. 20), and that, after the Kapp Putsch, the Ebert government "paid the rebel soldiers a premium which Kapp had promised them and sent to jail a republican recruit who had deserted from the rebel ranks" (p. 32). Is it not a little misleading to say that under the Weimar constitution "Parliament was charged with interpreting the constitution" (p. 24)? Despite such slips of the pen, this is a most enlightening and colorful portrayal, whose usefulness is enhanced by the addition of a chronology of post-war cabinets, election results, the program of the N.S.D.A.P., and a very substantial critical bibliography.—WOLFGANG H. KRAUS.

In National Socialist thought, the Weimar Republic belongs to the limbo of forgotten things. The serious historian cannot so lightly dismiss it from memory, but must increasingly investigate its brief and troubled existence. For this reason, Arthur Rosenberg's *A History of the German Republic* (Methuen, pp. xii, 350) is welcome as a comprehensive, bal-

anced, and scholarly contribution to the proper understanding of post-war Germany. The author is already known through his previous books, *The Birth of the German Republic* (1931) and *A History of Bolshevism* (1934). In his earlier study on the origins of the German Republic, Dr. Rosenberg covered the period from 1871 to 1918; in the present work, he has analyzed the years from 1918 to 1930. Both by training and by experience, the author is well qualified for his task. He was formerly professor of history at the University of Berlin. He was a leading official first in the Independent Social Democratic party and then in the Communist party, was a member of the Reichstag from 1924 to 1928, and took an active part in politics. There are places in the *History of the German Republic* where Rosenberg's own *Weltanschauung* colors his views of men and events, but for the most part he writes with objectivity and freedom from bias. In preparing the volume, the author has drawn upon a wide range of source materials (see the "Notes and Documents," pp. 323-341), such as the hitherto unused minutes of the meetings held by the Council of People's Commissars in November and December, 1918. Stresemann receives high praise. He was the "first German statesman since Bismarck who had a comprehensive foreign policy and who really carried out his policy in a determined fashion" (p. 232). Rosenberg also calls attention to the "astonishing resemblance" (p. 302) between Bethmann-Hollweg and Brüning. The former "prepared the way for the destruction of the German Empire," the latter destroyed "the last remnants of the Republic." Although the main account closes with 1930, an "epilogue" has been added for the English edition of the book. The translation has been competently done by Ian F. D. Morrow and L. Marie Sieveking.—ROGER H. WELLS.

Once the governmental logic and technique of the German "leadership state" are clearly understood on general principles, it requires no particular acumen to perceive that the judicial branch of government will have to be restrained by a variety of limitations in order to assure the desirable harmony. If, therefore, a recent German doctor's dissertation by Otto Reitis, *Die Richterliche Nachprüfung von Staatsakten in national-sozialistischen Staat* (Berlin: C. Trute, pp. xi, 136), on the judicial control of governmental acts in the National Socialist state represents no startling gain to our general insight, it is yet a useful and frequently revealing statement of the doctrine and practice in this phase of German statecraft. In five chapters, the author appraises judicial review of legislation before and after 1933, of governmental acts of state, of other acts of state, and finally of non-political administrative measures. Despite his general propriety, the author insists that it might be dangerous to class all measures of the state—legislative, executive, or judicial—as political

simply because in a fashion they all serve the interests of the state. For such a result, with the necessary withdrawal of all political acts from judicial cognition, would, in his opinion, lead to a denial of the *Rechtsstaat*, since there would be no judicial remedy left against any governmental act (p. 62). It certainly would not be feasible to have judges determiné political issues, as they are bound by the rule of law; and "dynamic politics cannot be forced into the norms of the legal order" (p. 63). Moreover, "the present unity of administrative and judicial establishments forbids the presentation of divergent answers to questions of political necessity. . . . Adjudication as well as administration have to serve politics." All in all, the withdrawal of political controversies from the courts is deemed best for the community and the judiciary itself. Obviously, a continuance of the former "liberal" practice of judicial review of legislation is no longer reconcilable with the principles of leadership, authority, and totality. The leader's "irrational responsibility," his complete authority, and the sway of public over private right are sufficiently weighty arguments. On the other hand, the author does claim that within certain limits there is a place for the judicial review of ordinances. His discussion of this problem and particularly his brave attempt to furnish a new theory of administrative adjudication in the Third Reich ("... the principle of hierarchic leadership demands obedience to the leader's will and, therefore, in case of disobedience, the elimination of a [contrary] act") will reward the attention of those who appreciate the intricacies of the totalitarian doctrine.—WOLFGANG H. KRAUS.

Although primarily an historical reference work, *Early Japanese History* (c. 40 B.C.—A.D. 1167) (Princeton University Press, 2 vols., pp. xiii, 405, 249), by Robert Karl Reischauer, contains much of value to the political scientist. The seventy-six-page "Outline of Early Japanese History" in Volume I is both the clearest and the most up-to-date account available in English of the evolution of the Japanese emperor from tribal leader to monarch of a centralized administration modelled on Chinese lines, the preservation of the dynasty by relinquishment to court officials of all real power, and the slow growth of feudalism in the provinces behind the façade of court rule. The tables and charts following show clearly for the first time the reformed administrative organization of Taika to which Japan reverted temporarily after the Restoration of 1868, and from which her modern government evolved. The remainder of the volume is a detailed chronology of Japanese history competently compiled from Japanese reference books and checked with the original sources. Dates for the semi-mythological period have been corrected in accordance with the conclusions reached by Japanese historians, who put the accession of Jimmu Tennō at approximately 40 B.C. instead of 660 B.C. The ter-

minal date, 1167, marks the appointment as Dajōdaijin of Taira Kiyomori—the beginning of the military rule which continued almost unbroken to 1867. Volume II, prepared with the collaboration of Mrs. Reischauer, includes a bibliography, valuable notes on editorial problems, historical maps, genealogical charts, a Chinese character index, and a detailed romanized index and glossary. This work is the second to be published under the imprint of the School of Public and International Affairs at Princeton, where Dr. Reischauer was a lecturer. A convenient guide for all students of the political development of Japan and an indispensable aid to those unable to read Japanese, it is a worthy monument to the author, who was killed by an aerial bomb in Shanghai last August while in the Far East collecting materials for further research.—CHARLES B. FAHS.

Many people in Canada have been perturbed within the last two or three years by the development of an active separatist movement in French Canada. Although it does not pretend to provide the immediate background for an understanding of contemporary currents of opinion in Quebec, Miss Elizabeth A. Armstrong's *The Crisis of Quebec, 1914-1918* (Columbia University Press, pp. 270) is, nevertheless, of considerable interest, since it is an able and sympathetic study of that spirit of *Canadienisme* which is once more making itself felt as an important force in Canadian politics. As an account of the reaction of the French-Canadian people to the war policy of the Canadian government in the years 1914 to 1918, the book helps to fill a serious gap in Canadian historical literature. The first three chapters deal with the evolution of French Canadian nationality, which, unlike most modern nationalisms, seeks not to impose itself on other peoples but merely to be left alone to work out its own salvation. Its motto is "Soyons nous-mêmes" and its watch-words, "Notre foi, notre langue, et nos institutions." The remainder of the book is a record, based mainly on what must have been an extremely laborious study of newspaper files and parliamentary debates, of the rift that gradually developed between the French-Canadians of Quebec and the rest of the Canadian people after a short period of national unity at the beginning of the war. The initial unity was destroyed by misunderstanding, tactlessness, and sheer stupidity on the part of English-speaking and French-speaking Canadians alike. There were anti-conscription riots in 1917 and early 1918, but in the latter months of the war conciliatory policies, which immediately produced more harmonious relations between the two races, were adopted. Dr. Armstrong is to be congratulated on this useful contribution to the knowledge of a conflict about which there has been much misunderstanding.—E. B. ROGERS.

INTERNATIONAL LAW AND RELATIONS

The thesis underlying C. Hartley Grattan's *Preface to Chaos; War in the Making* (Dodge Publishing Co., pp. xvi, 341) is an old one. That the people in this country are at one and the same time believers in peace and supporters of economic policies which tend to lead us into war is generally recognized by competent students of American foreign policy. Mr. Grattan takes the extreme position that the forces working for peace will definitely lose out and that war is inevitable. His argument is presented in discussions of a series of topics including American public opinion, American involvement in the World War, the influence of the concepts of private property and sovereignty upon foreign policy, the nature of American economic and foreign policy; and it concludes with two chapters on the character of the next war and its aftermath. Mr. Grattan has no doubt presented an extensive argument in support of his belief that war is inevitable. With much that is said concerning the likelihood of war, due to current economic policies, the reviewer agrees. He dissents most emphatically, however, from the author's conclusion that war is inevitable. Probably this is due to a difference of opinion concerning the nature of the capitalistic system. More, however, it is due to the reviewer's inability to accept the simplification of issues which Mr. Grattan presents when he says, e.g., ". . . we still forget that there is a wide divergence of sentiment between the masses of the people who want peace and the masters of our society who protest that they want peace but who do not want to give up policies and institutions that are making for war." Our "masses" and "masters" are themselves much more divided than this statement suggests. Herein lies possibly additional fear of chaos, but also considerable hope that forces exist to counteract those which at any particular moment tend toward war. Similarly, the reviewer believes that in his discussion of forces working toward peace Mr. Grattan's use of the word "pacifists" is inappropriate. The term hardly has a clear-cut use in this country any more, because the professional peace forces are widely split on essential policies. The term, at best, covers but a very small proportion of the persons who in one way or another are vitally concerned with the issue of peaceful international relations. Anyone familiar with developments during the last five years will realize that the complexion of the peace movement has materially changed. Finally, the reviewer believes that there is underlying Mr. Grattan's analysis too much of an assumption of rigidity in both policy and form of the American social economic system. This is perhaps also a result of the simplification which Mr. Grattan has undertaken. It should be said that the author admits that he has perhaps over-simplified some of the points in his discussion. The reviewer believes that this has resulted in removing many of the factors from their proper setting, and therefore

has distorted the total picture. With all that has been said, however, the picture presented by the author of the forces which rather unconsciously are leading in the direction of war is a stimulating and valuable one. It would indeed be fortunate if some of those who are today thus pressing toward their own destruction would read this word of warning.—WALTER H. C. LAVES.

In his *Great Britain and China, 1833-1860* (Oxford: Clarendon Press, pp. 345), W. C. Costin presents essentially the official English account of the establishment of treaty relations with China, since the complete British diplomatic record is almost exclusively drawn upon and accepted as presenting a complete and accurate narrative and interpretation of the events of the period. These British sources are occasionally supplemented by manuscript materials drawn from the archives of the Quai d'Orsay, the manuscript correspondence of the Catholic missionaries of Les Missions Etrangères in their Paris House, and by a few citations from American sources. Thus the official position is presented fairly and sympathetically. There is also revealed an appreciation of some of the difficulties of the Chinese officials, but mainly only as those difficulties were perceived by the British officials. The outlines of the subject are thus rather narrowly drawn, but within the limits set the study is careful and may be considered substantially accurate. It is unfortunate, however, that the author did not examine more extensively and carefully, and with less national bias, the American position as it affected Britain and Anglo-Chinese relations. Otherwise, what is essentially a sound and valuable study is weakened chiefly by the failure to engage in a full discussion of such important questions as extraterritoriality, the conditions of establishment and development of the International Settlement at Shanghai, and the British attitude toward the Taip'ing rebels. The discussion of such questions as these is so limited as to be totally inadequate.—HAROLD M. VINACKE.

Dr. William O. Aydelotte's *Bismarck and British Colonial Policy; The Problem of South West Africa, 1883-1885* (University of Pennsylvania Press, pp. viii, 179) is based largely upon manuscript material found in British and German archives. The main facts and the conclusions of the study have been summarized by the author in an article "The First German Colony" in the *Cambridge Historical Journal*, V, 291-313; and the topic has been discussed previously by several writers, notably Miss Mary Townsend, Mr. R. W. Bixler, and Mr. R. I. Lovell. Dr. Aydelotte supplies many details to the picture of the Anglo-German diplomatic dispute over some eight hundred miles of harborless African coast with

an arid hinterland; he prints illuminating excerpts from unprinted confidential documents; but he does not change the general impression of the character of the controversy. To the question whether Bismarck actually desired to build up a German colonial empire, the author inclines to answer "not proven." He exonerates Britain from the charge of bad faith, and is kind to Gladstone; but Lord Derby is criticized rather sharply and the German ambassador to London, Count Münster, is accused of bungling matters. Dr. Aydelotte finds it hard to challenge the legend of Bismarck's infallibility. Bismarck refused to reveal his plans and to give explicit instructions to Münster; nevertheless, the latter is blamed for the confusion that followed; and although the author admits that Bismarck probably did not appreciate the implications of the word "protection" as used in a note to Münster of April 24, 1884, he seems to think that British statesmen should have divined what Bismarck intended to do. Of the four appendixes, the most useful are II and III, dealing respectively with omissions in printed state papers and the character of Herbert Bismarck.—PAUL KNAPLUND.

In sponsoring the preparation and publication of William J. Wilgus' *The Railway Interrelations of the United States and Canada* (Yale University Press, pp. xvii, 304), the Carnegie Endowment for International Peace, Division of Economics and History, has reached a "new high." It was said of Gladstone in his budget efforts that he had the knack of "setting figures to music." Colonel Wilgus, out of his half-century of varied railroad engineering experience, has gleaned the art of conferring upon railroad history the quality of a saga. This is the saga of two great peoples, who, across a 4,000-mile boundary and through fifty "border eyelets," have interlaced their economic destiny with bands of steel. As Professor Shotwell has appropriately said, this is a story with "no parallel anywhere in history." The account runs from buffalo tracks and canoe routes to the Great Lakes-St. Lawrence Waterway and an International Commerce Commission, which are not yet. Great masses of details, many of them gathered through extensive correspondence with railroad officials and public authorities (which correspondence has been deposited in the Columbia University Library for use by all students of the subject), are masterfully set forth in eleven chapters (one each devoted to physiography, historical outline, and résumé, the remainder to topics such as Northeastern Gateways, Rate Structure, etc.), ten appendices, forty-seven tables, and twelve maps. Historians, economists, government and railroad officials, financiers, and engineers will welcome the volume for its authoritativeness, its comprehensiveness, its statesmanlike recommendations, and its guides to further study and materials.—HENRY REIFF.

Dr. William Habberton's *Anglo-Russian Relations Concerning Afghanistan, 1837-1907* (Urbana: University of Illinois Press, pp. 102), is an excellent brief survey of the history of the Afghan question in Anglo-Russian diplomacy for the period indicated by the title. The author follows a single thread and barely touches the complications connected with the general aspects of Anglo-Russian, Anglo-Afghan, and Russo-Afghan relations. The discussion deals with Britain's half-hearted efforts to check the advance of Russia in Central Asia, the crises of the eighties, the delimitation of the Russo-Afghan boundary, and the convention of 1907. The study is based on extensive research in printed material, and it will prove useful for students who desire a connected account of lengthy negotiations. But those who are looking for the "whys" and "wherefores" are apt to be disappointed. For instance, no mention is made of the fact that influential Englishmen favored Russian occupation of khanates in Central Asia because slavery and the slave trade would then be exterminated in that region. Appendices give the Anglo-Russian agreements of 1873, 1885, 1895, and 1907. The bibliography is full and up-to-date, and the index is good.—PAUL KNAPLUND.

For more than seventeen years, the Royal Institute of International Affairs, more familiarly known as Chatham House, has provided students of international relations with a collection of surveys, monographs, study group reports, and individual studies which are as remarkable for their range and variety as for the scientific objectivity which they so sedulously preserve. This service, supplemented as it is by unique library and research facilities, has recently been described by Commander Stephen King-Hall in a slender volume, *Chatham House; A Brief Account of the Origins, Purposes, and Methods of the Royal Institute of International Affairs* (Oxford, pp. xii, 144). Although written chiefly for the purpose of interesting possible contributors in the endowment campaign which is now being conducted by the Council of Chatham House, the book provides an excellent account of the structure, methods, and impressive achievements of an institution which has served most deservedly as the model for most similar national institutions throughout the world.—GRAYSON L. KIRK.

Any impartial observer of international affairs must question the reasons which have induced a German authority to translate and edit the Czechoslovak memoranda submitted to the Peace Conference of Paris of 1919. The answer can be found in the introduction to Dr. Hermann Raschhofer's *Die tschechoslowakischen Denkschriften für die Friedenskonferenz von Paris 1919-1920* (Carl Heymanns, pp. xxxii, 331), wherein, for example, we are reminded that it was "the intention of the

Czechoslovak government to create the organization of the state by accepting as a basis of national rights the principles applied in the constitution of the Swiss Republic; that is, to make of the Czechoslovak Republic a sort of Switzerland, taking into consideration, of course, the special conditions in Bohemia" (pp. xi-xii). The point is, of course, that these promises have not materialized, and thus, one can easily assume, another good argument has been stored up in case Berlin decides to do something about the German minority in Czechoslovakia. The book is just another propagandist work which, at its best, is a good illustration of the methods used by Goebbels and his associates.—J. S. ROUCEK.

POLITICAL THEORY AND MISCELLANEOUS

In his *Karl Marx und die Wirklichkeit* (Editions de la Phalange, pp. iii, 97), Heinz Lunau undertakes to show by logical and philological analyses that Marxian economics is fallacious. "He began with phantasy and ends with products of phantasy" (p. 36). Marxism is scholasticism, jugglery with empty words labelled scientific. Recognition of this must precede any attempt to better present economy. Here, Lunau believes, is where other critics of Marx—such as Werner Sombart—err; because they begin criticism with acceptance of Marx's premises, a process that can lead only to heterodox, but equally delusive, socialisms. The value of this rather bumptious monograph can be tested by means of the opportune appearance in English translation (somewhat abbreviated) of Sombart's *Deutscher Sozialismus*. This highly condensed little volume (*A New Social Philosophy*, Princeton University Press, pp. xii, 295) is written as a tract for the times, and one that, in the author's words, "keeps within the province of ideas set by the government." That adds to its value for us. In deftly articulated series—well summarized in the six section headings: I. The Economic Age; II. What is Socialism?; III. The Aberrations of Socialism in the Economic Age (Marxism); IV. What is German Socialism?; V. The State; VI. Economics—Sombart fulfills his purpose, stated in his foreword to be "to take the obviously strong forces which are striving to achieve the fulfillment of the national socialistic idea on its socialistic side and turn them into paths in which they shall not become destructive but shall enrich themselves and all life." Sombart is throughout aware that "German Socialism is not exhausted through the awakening of sympathetic feelings or enthusiastic moods. An open spirit must precede, but it must at once become effective in an objective arrangement which also takes account of daily life with its disenchantments" (p. 150). This sanity puts scholars in debt to the author and to his translator, Professor Karl Geiser, for a very compact, lucid, and intelligent exposition of one aspect of Nazism. Professor Geiser explains the change of title as due to his belief in "the universal character of the book;" with this

the reviewer must disagree. Rather, he sides with Sombart in believing that today a sound economy must be based upon national—and, therefore, peculiar—factors. Yet Sombart's very emphasis upon that necessity does make his book a timely exemplar for social analysts of every land.—ALLAN F. SAUNDERS.

E. Yaroslavsky, in his *History of Anarchism in Russia* (International Publishers, pp. 127), has not given us a rounded historical account, but rather "experiences of the anarchist movement from Bakunin through the Russian revolution in relation to anarchism in Spain today." There is no adequate statement of the origins of anarchism or of its doctrines, nor any genuine evaluation of its significance in Russia. Instead, the general argument is maintained that the methods advocated by anarchists in Russia (individual terrorism and isolated acts of expropriation) degenerated into banditry, harming the revolutionary cause inestimably. In 1917, objecting to all authority, they opposed the establishment of the proletarian state under Communist leadership. They failed to see that the workers' state was different from the old capitalist state known to Proudhon and Bakunin; that the slogan "property is theft" is true of capitalist property, but not of socialized property; that a strong discipline must be temporarily established to prevent the return of forces of reaction. The failure of Makhno and his cohorts to establish a community based on anarchist principles in Ekaterinoslav is taken as a practical demonstration of the inadequacy of anarchism. The final chapter, contrasting communist and anarchist views in respect to the state, abolition of classes, participation in government bodies, religion, etc., is well done. The book throughout is a paean of praise for Stalinist Russia, and the anarchists of Spain are urged to support the communist fight against the machinations of Trotsky, Hitler, and Mussolini.—E. C. HELMERICH.

Since so much fantastic nonsense pervades the writings of racial theorists from Gobineau to Rosenberg, critical evaluation might seem almost superfluous. Such is not the case. Like their absolutist brethren, the economic determinists, the racial determinists present a thesis which, because of its continued vigor, cannot be summarily dismissed. Jacques Barzun offers in his *Race; A Study in Modern Superstition* (Harcourt, Brace and Co., pp. x, 353) a scholarly, though far from dispassionate, study of racial doctrines as they have developed in European thought over the past century. He appends some random quotations as specimens of "race-thinking" and twelve pages of valuable bibliographical notes. The author's criticism of these theories proceeds from a fundamental agnosticism which challenges the logical validity of all generalizations, not only as to racial, but as to any group-identifying, characteristics. His

position is certainly more consistent than that of some neo-Marxists, for instance, who reject "race" or "nation" but accept "class" as a concept denoting a substantive human grouping. However timely may be Mr. Barzun's warning against loose and facile generalization, he proves too much. Whether we like it or not, large-scale political phenomena cannot be dealt with in terms simply of individuals. Human categories and sub-categories must be posited from observed similarities of behavior, and tested by their serviceability. Common identifications are never absolute in human groupings; they simply represent prevailing tendencies, with overlapping fringes and variabilities in time and intensity. The concept of "race," it is freely admitted, suffers from ambiguity and vagueness; perhaps its cultural is more useful than its biological significance. The differentiation of cultures (whether conceived in terms of "race" or "nation") is not absolute in its external or in its internal implications; but this is true of all group distinctions. Characterization of group behavior are hazardous, but can scarcely be avoided.—WILLIAM P. MADDOX.

Conservatives of the world, unite! This is the cry of Gerald M. Spring in his *Nationalism on the Defensive* (Arthur H. Clark Company, pp. 55). In the writings of the Traditionalists—Hilaire Belloc, G. K. Chesterton, Irving Babbitt, Allen Tate, and Donald Davidson among others—he sees attempts at a rational internationalism. It is essential, however, that the Protestants and Catholics, the Agrarians and Urbanites, discover and admit the common denominator of the movement—defense of the inalienable right of property—thus presenting an unbroken phalanx to proletarian solidarity. He gives a sympathetic and lucid interpretation of an intelligentsia confused and panicky by a too rapidly moving world. A reverence for the traditional is the only balancing wheel. On the shoulders of the Traditionalists of all shades is perched insecurely the mantle of Edmund Burke and the eighteenth-century conservatives. In the words of Dr. Spring: "We are living in the age of proletarian or workers' class consciousness. What is now needed is an equal understanding among conservatives of different shades of opinion all over the globe . . . No mere national concept must be allowed to interfere with this solidarity of conservatives so important at this time."—RAY F. HARVEY.

Miss Joan Robinson, author of *Essays in the Theory of Employment* (Macmillan Co., pp. vii, 255), is the most outstanding disciple of Professor J. Maynard Keynes, whose questioning of the very basis of the classical theory has made him in the past six years the center of all discussion in Anglo-American economics. The classical school assumes that the rate of interest will adjust itself to equilibrate the supply of savings

and the demands of investment, and that consequently funds saved from consumption must inevitably find their way into the hands of entrepreneurs. The Keynes school strikes at the very heart of this theory by making investment independent of savings, first because in actuality the psychology of savers in certain periods is such that they prefer to hoard rather than invest—regardless of the rate of interest—and secondly, because the banking system in actuality expands its loans regardless of savings, and hence determines the rate of interest independent of savings. The classical school attributes to the rate of interest the ability to effectuate exactly the balance between savings and investment which will guarantee full employment. In fact, however, the classical promise of full employment as a result of the automatic adjustment becomes a mere chance fulfillment, and hence the Keynes school demands social action at the point of investment, namely, by seizing the rate of interest as a fulcrum and reducing it or else by public responsibility for investment. Miss Joan Robinson's essays include "full employment," inability of labor, the "long-time theory of employment," the "concept of zero savings," and even "some reflections on Marxist economics," in which Marx is properly classed as a "classical economist."—SELIG PERLMAN.

Andrew R. Burn's *The World of Hesiod; A Study of the Greek Middle Ages* (E. P. Dutton and Co., pp. xv, 263) is an attempt "to answer the question what manner of men the Greeks were, before they launched out on that momentous process of change which leads to Ionian rationalism and to the civilization of Athens." The author covers chronologically the period from about 1000 B.C. to well into the eighth century and calls this period the Dark Age. In Chapter II, he uses various sorts of material, both literary and archaeological, to make his readers familiar with "a remarkable old book," the *Works and Days* of Hesiod, stressing particularly its economic significance. Other chapters treat of psychology and the practice of magic, law, the state, the family (with a long discussion on sexual restrictions and homosexuality), and Greek festivals and games. A lengthy chapter—perhaps too lengthy—is devoted to the Greek states in the Dark Age, and a brief chapter—perhaps too brief—to travels and sea-farers. The book deals with a very interesting subject, but the style and presentation are sometimes hazy and too abstract. In addition, the author is so greatly influenced by Marx and Freud, whose work he considers "part of the common heritage of our own and all succeeding generations" (p. xi; also p. 12), and so greatly admires Hegel's philosophy (pp. 10, 142), that the book must be read with some caution. He omits in his bibliography the years of publication of the works mentioned.—A. VASILIEV.

Research Memorandum on Minority Peoples in the Depression (Social Science Research Council, pp. x, 252), by Donald Young, is one of thirteen monographs sponsored by the Committee on Studies in Social Aspects of the Depression of the Social Science Research Council. In accordance with the general plan of these studies, Professor Young has applied himself to discussion and formulation of feasible research problems which might be undertaken in an effort to determine various effects of the depression upon those groups in the United States which, because of their racial or national origins, may properly be regarded as minorities. Data, sources, and interpretations which could be of use in such studies are considered and analyzed, and some general information concerning minorities is included incidentally. The author feels, however, that "practically nothing of scientific value is known about American minorities in depression." In the chapter on "Government and Politics," a number of projects are suggested which, if carried out, might well aid us in discovering whether the depression exerted any particular influence on minority groups in relation to such matters as voting, relief, and radicalism. Several short appendixes dealing with United States census and immigration classifications are included.—MARTHA ZIEGLER.

In *Reconstruction* (International Publishers Co., Inc., pp. 256), James S. Allen has expanded into book size the central theme of Chapter I of his study of the year before on "The Negro Question in the United States." The book forms the second link in an attempt to re-write the history of the American people in the interests of labor. In eight chapters, the volume, with the subtitle, "The Battle for Democracy (1865-1876)," develops the thesis of revolution, reaction, radical reconstruction, political consolidation, labor organization, coalition, and counter-revolution. The central figure is the Negro. The central thought is land distribution. Without the break-up of the plantations as a general objective and the possession by each freedman of forty acres as a specific goal, the fate of Negro democracy was fore-doomed. Civil Rights could not last. Suffrage power could not be maintained. The book is instructive and stimulating, with a clear and forceful style. Most of the controversial statements are documented. A few minor errors were noted: Johnson was acquitted, *not impeached*, by one vote (p. 34); "The election campaign of 1875" (p. 199); 1915, not 1914, for the Guinn decision on the grandfather clause (p. 209).—GEORGE C. ROBINSON.

Only as a statement of the position of the Communist party on the American Revolution does *The First American Revolution* (International Publishers, pp. 160), by Jack Hardy, have interest for the student of

American affairs. The book's purpose is "to preserve the revolutionary traditions of the American people," on the assumption that in "the present epoch of productive decline and increasing class oppression, the American people may well turn back to the first American Revolution, learn from it, and then carry on to completion the work begun by it." The body of the essay deals with the well-known facts of the Revolutionary period, but the author is not sufficiently versed in the subject to compress his material without sacrificing accuracy of statement. The significant ideas appear to have been taken (without due acknowledgment) from an article by Louis M. Hacker, "The First American Revolution," in the *Columbia University Quarterly* for September, 1935. Those interested in the best Marxian interpretation of the Revolution should read Mr. Hacker's able analysis.—CURTIS P. NETTELS.

RECENT PUBLICATIONS OF POLITICAL INTEREST BOOKS AND PERIODICALS

CLYDE F. SNIDER
University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

Books

- Anderson, Hobson Dewey.* Our California state taxes: facts and problems. Pp. 313. Stanford Univ. (Calif.): Stanford Univ. Press. 1937.
- Beard, Charles A. and Mary R.* The making of American civilization. Pp. 932. London: Macmillan. 1937.
- Behringer, Frederick D.* New Mexico municipalities and county consolidation in New Mexico. Pp. 31. Albuquerque (N. M.): Univ. of New Mexico. 1937.
- Bethea, Andrew J.* The contribution of Charles Pinckney to the formation of the American union. Pp. 149. Richmond (Va.): Garrett & Massie. 1937.
- The book of the states. Vol. 2, bk. 1, 1937. Pp. 400. Chicago: Council of State Governments. 1937.
- Buehler, Ezra Christian*, ed. Unicameral legislatures. Pp. 339. N. Y.: Noble & Noble. 1937.
- Calley, James Willard.* Complete courses in civil service. 6th ed. Pp. 320. Massapequa (N. Y.): Civil Service Pub. Co. 1937.
- The case for and against the supreme court. Pp. 28. Chicago: Am. Bar Assoc.
- Casey, John T., and Bowles, James.* Farley and tomorrow. Pp. 282. Chicago: Reilly & Lee. 1937.
- Elson, Henry William.* Through the years with our constitution. Pp. 223. Boston: Stratford. 1937.
- Fagen, Melvin M.* The families of aliens; a study of their citizenship status. Pp. 15. N. Y.: Nat. Council on Naturalization and Citizenship. 1937.
- Farrand, Max*, ed. The records of the federal convention of 1787. Rev. ed. Vol. 4. Pp. 242. New Haven (Conn.): Yale Univ. 1937.
- Ford, Robert S.* Realty tax delinquency in Michigan. Pp. 125. Ann Arbor (Mich.): Bur. of Govt., Univ. of Mich. 1937.
- Fortenberry, Charles Nolan.* Legal regulation of political party organization in the United States. Pp. 15. Urbana (Ill.): Univ. of Ill. 1937.
- Foster, William Z., and Others.* Party building and political leadership. Pp. 127. N. Y.: Workers Lib. Pubs. 1937.
- Gosnell, Harold F.* Machine politics: Chicago model. Pp. 249. Chicago: Univ. of Chicago Press. 1937.
- Grodinsky, Julius*, ed. Revival of depressed industries. Pp. 225. (Annals of Am. Academy of Political and Social Science, Sept., 1937). Phila.: Am. Acad. of Pol. & Soc. Sci.
- Gulick, Luther, and Urwick, L.*, eds. Papers on the science of administration. Pp. 196. N. Y.: Inst. of Pub. Admin. 1937.
- Hoxie, Mrs. George Howard.* Public health organization. Pp. 51. Wash.: Nat. League of Women Voters. 1937.
- Isakoff, Jack Fein.* The public works administration. Pp. 18. Urbana (Ill.): Univ. of Ill. 1937.
- Johnsen, Julia E.*, comp. Reorganization of the supreme court. Pp. 326. (Reference shelf, v. 2, no. 4). N. Y.: H. W. Wilson. 1937.

Keohane, Robert E., and Others. Government inaction: a study of the problems in American democracy. Pp. 861. N. Y.: Harcourt. 1937.

Lasson, Nelson B. The history and development of the fourth amendment to the United States constitution. Pp. 154. Baltimore: Johns Hopkins Press. 1937.

Leonard, J. M., and Mohaupt, Rosina. Exemption of homesteads from taxation. Pp. 34. Detroit: Detroit Bur. of Govt. Research. 1937.

Lewis, Charles D. The rural community and its schools. Pp. 428. N. Y.: Am. Book Co. 1937.

Norton, Thomas Lowell. Old age and the social security act of 1935. Pp. 116. Buffalo (N. Y.): Foster & Stewart Pub. Corp. 1937.

Proposed re-making of the federal judiciary: analysis of the Logan-Hatch-Ashurst amendment. Pp. 24. Chicago: Am. Bar Assoc. July 10, 1937.

Reorganization of the federal judiciary; lower federal court study. Pp. 64. Chicago: Am. Bar Assoc. July, 1937.

Reorganization of the federal judiciary; research statement of the junior bar conference. Pp. 204. Chicago: Am. Bar Assoc. May, 1937.

Ross, Colin. Amerikas Schicksals-stunde: die Vereinigten Staaten Zwischen Demokratie und Diktatur. Pp. 314. Leipzig: Brockhaus. 1936.

Salmon, Thomas K. The passing political show. Pp. 54. Rutland (Vt.): Tuttle Pub. Co. 1937.

Shultz, William J., and Caine, M. R. Financial development of the United States. Pp. 785. N. Y.: Prentice-Hall. 1937.

Simey, T. S. Principles of social administration. Pp. 187. N. Y.: Oxford Univ. Press. 1937.

Social security in the United States. Pp. 215. N. Y.: Am. Assoc. for Soc. Security. 1937.

Spencer, William H. The national labor relations act. Pp. 98. Chicago: Chicago Univ. Press. 1937.

Tax Policy League. How shall business be taxed? Pp. 175. N. Y.: Tax Policy League. 1937.

Taylor, Martin. Reorganization of the federal judiciary. Pp. 12. Chicago: Am. Bar Assoc. May, 1937.

Twentieth Century Fund. More security for old age. Pp. 204. N. Y.: Twentieth Century Fund. 1937.

Watson, Jesse Paul. Economic backgrounds of the relief problem. Pp. 157. Pittsburgh (Pa.): Bur. of Bus. Research, Univ. of Pittsburgh. 1937.

Wilcox, Jerome K., comp. Guide to the official publications of the New Deal administrations. 2nd supp., Dec. 1, 1935-Jan. 1, 1937. Pp. 190. Chicago: Am. Lib. Assoc. 1937.

Zorn, Burton A., and Feldman, George J. Business under the new price laws. Pp. 480. N. Y.: Prentice-Hall. 1937.

Articles

Administration. Public welfare reorganization. *Marietta Stevenson.* Personnel in social security. *Agnes Van Driel.* Reorganization of the federal social services: the recommendations of the Brookings institution. *Social Service Rev.* Sept., 1937.

———. The progress of the merit system. *Lyle Belsley.* Minn. Municipalities. Sept., 1937.

———. The progress of administrative reorganization in the seventy-fifth Congress. *Joseph P. Harris.* Public service training in universities. *O. Glenn Stahl.* Am. Pol. Sci. Rev. Oct., 1937.

———. The labor post in the states and federal government. *Frances Perkins.*

Women in public office. *Katharine F. Lenroot*. Entering the public service; opportunities and training for women in governmental administration. *Jean Charters*. State Govt. Oct., 1937.

———. Proposed reorganization of the federal departments. *Symposium*. Cong. Digest. Oct., 1937.

Administrative Law. Significance of administrative commissions in the growing of the law. *James M. Landis*. Inc. Law Jour. Aug., 1937.

———. A bill to provide for the more expeditious settlement of disputes with the United States. *O. R. McGuirs*. Am. Bar Assoc. Jour. Aug., 1937.

———. Administrative adjudication in California and its review by writ of certiorari. *Lincoln Rode*. Calif. Law Rev. Sept., 1937.

Agriculture. Survival of the plantation system in Louisiana. *R. W. Shugg*. Jour. Southern Hist. Aug., 1937.

———. The rise of southern tenancy. *Marjorie S. Mendenhall*. Yale Rev. Sept., 1937.

———. Financing farm ownership through payment in kind. *O. R. Johnson*. Southwestern Soc. Sci. Quar. Sept., 1937.

———. National security and the farm. *Henry A. Wallace*. Atlan. Mo. Sept., 1937.

———. Exit the share-cropper. *Robert Talley*. A five-year plan for American farmers. *Ken Kimbel*. Nation's Business. Sept., Oct., 1937.

———. Farm legislation and the people's front. *Jerry Coleman*. Communist. Oct., 1937.

Banking. Federal control of economics and the banks. *Charles Harrison Mann*. Bankers Mag. Sept., 1937.

Bankruptcy. Corporate reorganizations. *John Gerdes*. U. S. Law Rev. Aug., 1937.

———. Has Congress circumvented the Ashton decision? *Forrest Revere Black*. Am. Bar Assoc. Jour. Sept., 1937.

Conservation. Disaster rides the plains. *Stuart Chase*. Am. Mag. Sept., 1937.

Constitution. Shall constitutional government endure? *Samuel B. Pettengill*. Ind. Law Jour. Aug., 1937.

———. Revolutionary background of the United States constitution. *Earl Browder*. Communist. Sept., 1937.

———. The constitution: its development, adaptability, and future. *Roscoe Pound*. The problem in 1787 and how it was met. *George W. Macey*. Am. Bar Assoc. Jour. Oct., 1937.

Constitutional Law. The growth and development of the federal commerce power. *J. C. Phillips*. Temple Law Quar. July, 1937.

———. Review of recent supreme court decisions. *Edgar Bronson Tolman*. Am. Bar Assoc. Jour. Aug., 1937.

———. The power of Congress and the President in international relations: three recent supreme court decisions. *Stefan A. Riesenfeld*. Calif. Law Rev. Sept., 1937.

———. Intoxicating liquors in interstate commerce: validity of state discriminatory legislation. *Harold Epstein*. Calif. Law Rev. Sept., 1937.

Double Jeopardy. Double jeopardy and the concept of identity of offenses. *A. L. Brooklyn Law Rev.* Oct., 1937.

Education. Legal provisions for negro schools in Missouri from 1890 to 1935. *W. S. Savage*. Jour. Negro Hist. July, 1937.

———. Louisiana state university. *Don Wharton*. Scribner's. Sept., 1937.

Federal Reserve System. Reserve bank directors. *Karl R. Bopp*. Jour. Pol. Econ. Aug., 1937.

Federal Theatre Project. The future of the government in the theatre. *Lawrence Langner*. Yale Rev. Sept., 1937.

Finance. Balance what budget? *David Cushman Coyle*. Harper's. Sept., 1937.

Flood Control. Man versus floods. *J. K. Finch*. Pol. Sci. Quar. Sept., 1937.

Health. For a national health program. *William Z. Foster*. Communist. Aug., 1937.

———. Public health legislation. *James A. Tobey*. Nursing services for mothers and children as part of a balanced public health nursing program. *Hortense Hilbert*. A venereal disease program for state or full-time health departments. *O. C. Wenger*. School nursing in a generalized nursing program. *Grace Ross*. Changing public health practices and problems. *Abel Wolman*. Am. Jour. of Pub. Health. Aug., Sept., Oct., 1937.

Housing. Governmental efforts in alum clearance. *Robert H. Skilton*. Temple Law Quar. July, 1937.

———. The work of the federal housing administration. *Arthur M. Weimer*. Jour. Pol. Econ. Aug., 1937.

———. The Wagner act: a definite housing program. *J. W. Brabner-Smith*. Am. Bar Assoc. Jour. Sept., 1937.

Indians. Anthropology and the problems of Indian administration. *Felix S. Cohen*. Southwestern Soc. Sci. Quar. Sept., 1937.

Interstate Relations. Builders of a more perfect union. Toward intergovernmental coöperation. Liquor control by coöperation. State Govt. Sept., 1937.

———. State coöperation for crime repression. *John H. Wigmore*. Jour. Crim. Law and Criminol. Sept.-Oct., 1937.

Judicial Review. Le gouvernement des juges et le "pouvoir de police." *J. Lambert*. Rev. Gén. Droit, Légis. et Juris. Jan.-Mar., 1937.

Judiciary. La reforma judicial en los Estados Unidos de América. *M. Marcos Morales*. Rev. Jurid. de la Univ. de Puerto Rico. Mar.-Apr., 1937.

———. Proposed new procedure for removal of federal judges. U. S. Law Rev. July, 1937.

———. The [state] constitutional convention and the judiciary article. *Josepà Rosch*. N. Y. Bar Assoc. Bull. Sept., 1937.

———. An independent judiciary. *Frank O. Lowden*. On judicial tenure in office. *Paul R. Kach*. Com. Law Jour. Aug., Sept., 1937.

———. President signs substitute court bill. Am. Bar Assoc. Jour. Sept., 1937.

Labor. Kansas industrial court law down to date. *W. L. Huggins*. Jour. Bar Assoc. of Kan. Aug., 1937.

———. A survey of labor migration between states. Collective bargaining by Amalgamated Clothing Workers. Minimum-wage legislation in the United States as of July 1, 1937. The expanding activities of state labor departments. Monthly Labor Rev. July, Aug., Sept., 1937.

———. Labor problems under government regulation. *Glenn A. Bowers*. Am. Federationist. Sept., 1937.

———. The C.I.O. turns a page. *George E. Sokolsky*. Atlan. Mo. Sept., 1937.

———. Security of job tenure and trade-union benefits. *Constance A. Kiehl*. Am. Econ. Rev. Sept., 1937.

———. Labor's green light. *Beverly Smith*. Am. Mag. Sept., 1937.

———. The labor crisis. *Alvin Johnson*. Yale Rev. Sept., 1937.

———. The blind spot in labor relations. *J. D. Houser*. A test tube for unemployment. *R. L. Greenman*. Specialized first aid in labor ills. *J. R. Steelman*. Labor's divided mind. *Leo Wolman*. A sit-down strike that won. *D. M. Carruthers*. Nation's Business. Sept., Oct., 1937.

- . Strikers, let utilities alone. *Carlisle Barger*. Pub. Util. Fort. Oct. 14, 1937.
- . The convention of 400,000. *B. K. Gebert*. Communist. Oct., 1937.
- . "The workers" vs. the workers. *Channing Pollock*. Am. Mercury. Oct., 1937.
- . Labor laws of the United States of America. *Louis B. Wehle*. Am. Bar Assoc. Jour. Oct., 1937.
- . What labor is thinking. *John L. Lewis*. Pub. Opinion Quar. Oct., 1937.
- Legislatures and Legislation. Legislative reapportionment in Washington state. *J. F. Roush*. Pacific No. West Quar. July, 1937.
- . The limitations on legislation. *James G. Motherhead*. Neb. Law Bull. July, 1937.
- . Unicameral legislatures. *Symposium*. Cong. Digest. Aug.-Sept., 1937.
- . Nebraska's one-house legislature. *John P. Senning*. Southwestern Soc. Sci. Quar. Sept., 1937.
- . Women in Congress. *Hattie W. Caraway*. Housekeeping in the legislature. *Bernice T. Van Der Vries*. Fair play in Maine. *Marion E. Martin*. Women in state legislatures. State Govt. Oct., 1937.
- . The legislation of the forty-seventh general assembly of Iowa. *Jacob A. Swisher* and *Jack T. Johnson*. Ia. Jour. Hist. and Pol. Oct., 1937.
- Lynching. Ousting judge lynch. *Ben Cothran*. Forum. Oct., 1937.
- Merchant Marine. U.S. Shipping. *Symposium*. Fortune. Sept., 1937.
- . What about our ships? *Gardner Harding*. Current Hist. Sept., 1937.
- Mining. State mine inspection bureaus. *John B. Andrews*. Am. Labor Legis. Rev. Sept., 1937.
- Money. Our gold policy and the commodity price outlook. *A. Philip Woolfson*. Bankers Mag. Aug., 1937.
- . La politique monétaire du Président Roosevelt. *André Piettre*. Rev. Econ. Int. Aug., 1937.
- . The gold dilemma. *C. R. Whittlesey*. Quar. Jour. Econ. Aug., 1937.
- . Uncle Sam, the silver king. *H. B. Elliston*. Atlan. Mo. Sept., 1937.
- Parties. The problems of the farmer-worker alliance. *Clarence A. Hathaway*. The vanguard rôle of the communist party. *Alex Bittelman*. The importance of the present recruiting drive for the future of our party. *Fred Brown*. Development of the farmer-labor party movement in the municipal election campaign. *I. Amter*. Communist. Aug., Sept., Oct., 1937.
- . The crisis and political parties. *Herbert Hoover*. Atlan. Mo. Sept., 1937.
- . How a research bureau works for the Democratic party. *Richard A. Staderman*. Pub. Opinion Quar. Oct., 1937.
- Personalities. From Tillman to Long: some striking leaders of the rural south. *Daniel M. Robison*. Jour. Southern Hist. Aug., 1937.
- . Ambassador Davies. Fortune. Oct., 1937.
- Planning. Physical aspects of country planning. *Frank A. Waugh*. Jour. Land and Pub. Util. Econ. Aug., 1937.
- Presidential Election. Episodes de la dernière élection présidentielle aux États-Unis. *J. T. Salter*. Sciences Pol. May, 1937.
- Public Utilities. The customer service of American gas companies. *M. Milne-Watson*. Teamwork needed. *Herman Russell*. Pub. Util. Fort. Aug. 19, Sept. 30, 1937.
- . Carrier Liability. Common carrier liability applied to carriers by air. *James M. McDermott*. Am. Bar Assoc. Jour. Sept., 1937.

———. *Customer Relations*. The quest for good will. *W. Clarence Adams*. Letter to a utility president. *Ralph B. Cooney*. Pub. Util. Fort. Sept. 16, Oct. 14, 1937.

———. *Government Ownership*. The continued problem in the Tennessee valley. *Paul Severance*. The high school debate on electric utilities. *Bower Aly*. Relative failure or adequacy of public utility regulation. *John Bauer*. A power empire from Dan to Beersheba. *Herbert Corey*. How fares municipal ownership? Pub. Util. Fort. Aug. 19, Sept. 2, 1937.

———. *Public ownership of power*. *Arthur E. Morgan*. Atlan. Mo. Sept., 1937.

———. *Regulation*. Has utility regulation been reduced to negotiating and wheedling? *Henry C. Spurr*. Pennsylvania's regulatory ups and downs. *George Everett*. Penn's new utility law. *Richard J. Beamish*. The twilight zone between regulation and management. *R. S. Tompkins*. Recent gas problems before the regulatory commissions. *Ellsworth Nichols*. The American electric utilities and the government. *A Foreign Onlooker*. Pub. Util. Fort. Sept. 2, 16, 30, 1937.

———. *Reproduction Cost*. The present as compared with original cost of construction. *Carl I. Wheat*. Pub. Util. Fort. Aug. 5, 1937.

———. *Securities*. An institutional investor scans the utility horizon. *F. J. McDiarmid*. Pub. Util. Fort. Oct. 14, 1937.

———. *Taxation*. Utility customers easy marks for the taxing authorities. *Owen Ely*. Pub. Util. Fort. Sept. 16, 1937.

Regionalism. Regionalism as social science. *Donald Davidson*. Southern Rev. Autumn, 1937.

Relief and Unemployment. A community program for reducing unemployment and relief. *C. M. Bookman*. W.P.A. in Chicago, summer, 1936. *Margaret C. Bristol*. Rent policies under emergency relief: Milwaukee's experience. *Benjamin Glassberg*. Social Service Rev. Sept., 1937.

Roosevelt Administration. Washington's ballyhoo brigade. *Frank R. Kent*. Am. Mag. Sept., 1937.

———. *Problems ahead in America*. Round Table. Sept., 1937.

———. *Mr. Roosevelt and the future*. Roosevelt: democratic or dictatorial? *Stanley High*. Harper's. Sept., Oct., 1937.

———. *Dr. Roosevelt's propaganda trust*. *Gordon Carroll*. Autopsy on the new deal. *Albert Jay Nock*. How the W.P.A. buys votes. *Gordon Carroll*. Am. Mercury. Sept., Oct., 1937.

Social Security. Social security. *Errett P. Scrivner*. Jour. Bar Assoc. of Kan. Aug., 1937.

———. *Do present systems protect the unemployed?* *Robert J. Watt*. Am. Federationist. Aug., 1937.

———. *Social security is constitutional*. *George H. Trafton*. Health insurance as a national program. *John A. Kingsbury*. Federal voluntary old age insurance. *R. J. Meyers*. Am. Labor Legis. Rev. Sept., 1937.

———. *Statistical problems in the administration of social security*. *Euclid Clague*. Jour. Am. Statistical Assoc. Sept., 1937.

———. *An old-age pension for young people*. *Clarence Marsh Case*. Sociol. and Soc. Research. Sept.-Oct., 1937.

———. *Missouri uplift; a case history*. *Ralph Coghlan*. Am. Mercury. Oct., 1937.

Supreme Court. Attorney-General Williams and the chief justiceship. *P. H. Overmeyer*. Pacific No. West Quar. July, 1937.

———. *The supreme court and its social obligation*. *John Albert Vieg*. Am. Federationist. Aug., 1937.

———. *Public opinion defeats the court bill*. *Sylvester C. Smith, Jr.* Legal philology: resign; retire; emolument. *Max Radin*. Am. Bar Assoc. Jour. Aug., Oct., 1937.

- . Court and press. *Editors*. Current Hist. Sept., 1937.
- . Roosevelt loses: how? *Editorial comment*. The supreme court and social justice. *Lawrence Lucey*. Catholic World. Sept., Oct., 1937.
- . The packing of Hugo Black. *Albert Jay Nock*. Am. Mercury. Oct., 1937.
- Taxation. Regulation vs. undistributed profits tax: a dilemma. *H. D. Simpson*. New York real estate: its taxation and assessment. *J. E. Burton and Dorothy C. Burton*. Jour. Land and Pub. Util. Econ. Aug., 1937.
- . Recent developments of the governmental instrumentalities rule. *Starr Thomas*. Calif. Law Rev. Sept., 1937.
- . The corporation surplus tax in its relation to the business cycle. *H. L. McCracken*. Southwestern Soc. Sci. Quar. Sept., 1937.
- . State income taxes as applied to employees of the federal alphabetical agencies. *B. M. Whillock*. Tax avoidance v. tax evasion. *William Cogger*. Principles of state and local tax administration. *J. W. Martin*. The work of the tax division of the department of justice. *J. W. Morris*. The revenue act of 1937; some interpretative problems. *J. S. Seidman*. The present menace of taxation. *J. J. Klein*. Consumers' taxes v. income taxes. *Harvey Lebrun*. Tax Mag. Sept., Oct., 1937.
- . Tax-exempt salaries and securities; a re-examination. *Joseph L. Lewinson*. The loophole-closing revenue act of 1937. *George F. James, Jr.* Am. Bar Assoc. Jour. Sept., Oct., 1937.
- . Some problems in respect of inheritance taxes on foreign immovables. *Franklin S. Russell*. Brooklyn Law Rev. Oct., 1937.
- Trade-marks. Trade-mark problems and trade-mark laws. *Frank S. Moore*. Brooklyn Law Rev. Oct., 1937.
- Washington. Washington pageant. *Nathalie Colby*. Harper's. Sept., 1937.
- . Washington, a capital that went boom. *George E. Allen*. Nation's Business. Sept., 1937.

FOREIGN AND COMPARATIVE GOVERNMENT

Books

- Appadorai, A.* Dyarchy in practice. Pp. 445. N.Y.: Longmans. 1937.
- Atlee, C. R.* The labour party in perspective. Pp. 287. London: Gollancz. 1937.
- Azente, Crisar T.* Essai sur le régime représentatif en Roumanie. Pp. 564. Paris: Sirey. 1937.
- Babendreyer, Heinz.* Die politische Polizei in Preussen. Pp. 49. Stallupönen: Klutke. 1935.
- Baldwin, Stanley.* The torch I would hand to you. Pp. 171. London: Univ. of London Press. 1937.
- Bigot, H.* La chambre de culture allemande dans le régime totalitaire du III^e Reich. Pp. 146. Paris: Domat: Montchrestien. 1937.
- Bolitho, Hector.* King Edward VIII; an intimate biography. Pp. 327. Phila.: Lippincott. 1937.
- The case of Leon Trotsky: report of hearings on the charges made against him in the Moscow trials, by the Preliminary Commission of Inquiry. Pp. 636. N.Y.: Harper. 1937.
- Chiang Kai-shek, General, and Chiang Kai-shek, Madame.* General Chiang Kai-shek; the account of the fortnight in Sian. Pp. 198. Garden City (N.Y.): Doubleday. 1937.
- Cohen, Victor.* The British commonwealth. Pp. 248. London: Heinemann. 1937.
- Coronation of their majesties King George VI and Queen Elizabeth. Pp. 67. N.Y.: Macmillan. 1937.

Crown and empire; the coronation of King George VI, May 12, 1937. Pp. 227. London: Edwards. 1937.

Darcy, Sam. What's happening in the U.S.S.R? Pp. 15. N.Y.: Workers' Lib. Pubs. 1937.

Dawson, Robert McGregor. The development of dominion status. Pp. 480. London: Oxford Univ. Press. 1937.

Dean, Vera M., and Others. New governments in Europe: the trend towards dictatorship. Rev. ed. Pp. 520. London: Nelson. 1937.

Dennis, Geoffrey. Coronation commentary. Pp. 245. N.Y.: Dodd. 1937.

Edwards, William. Crown, people, and parliament. Pp. 256. London: Arrow-smith. 1937.

Finer, Herman, The British civil service. Pp. 254. London: Allen & Unwin. 1937.

Proembgen, Hanns. Kemal Ataturk: a biography. Pp. 285. N.Y.: Hillman-Curl. 1937.

Gibbs, Sir Phillip Hamilton. Ordeal in England. Pp. 286. Garden City (N.Y.): Doubleday. 1937.

Glass, Dudley. The book about the British empire. Pp. 128. London: Warne. 1937.

Goslin, Mrs. Ryllis C. A., ed. Changing governments and new social problems. Pp. 46. N.Y.: For. Policy Assoc. 1937.

Hale, Pierre. La France trahit ses paysans. Paris: Flammarion. 1937.

Hartshorne, Edward Yarnall. The German universities and national socialism. Pp. 184. London: Allen & Unwin. 1937.

Heinrichsdorff, Wolff. Die liberale Opposition in Deutschland seit dem 30. Januar 1933. Pp. 60. Hamburg: Evert. 1937.

Hoops, Otto W. A. Der Status der Südafrikanischen Union. Pp. 237. Hamburg: Christians. 1937.

Hulasingha, Prakob. Die Verfassung des Königreichs Siam vom 10. December 1932 und das parlamentarische Regierungssystem. Pp. 69. Jena: Buchdruck-Werkstätte. 1937.

Jones, F. C. China. Parts I and II. Pp. 132, 276. London: Arrowsmith, 1937.

Joshi, G. N. The new constitution of India. Pp. 494. London: Macmillan. 1937.

Kerr, P. H. and A. C. The growth of the British commonwealth. Rev. ed. Pp. 222. London: Longmans. 1937.

King-Hall, Stephen. The empire, yesterday and today. Pp. 109. London: Oxford Univ. Press. 1937.

Kornev, N. Litvinov. Pp. 111. Moscow: "Molodaya Gvardiya." 1937.

Kupfer, Ernst. Militärgerichtsbarkeit und Parteigerichtsbarkeit der NSDAP. Pp. 96. Coburg: Tageblatt-Haus. 1937.

Lahiri, S. K. and Banerjee, B. N. New constitution of India. Pp. 398. Calcutta: Politics Club. 1936.

Laws, J. A., and Peacock, H. L. Political parties: a comparative survey. Pp. 54. London: Heffer. 1937.

MacLaurin, W. R. Economic planning in Australia. Pp. 319. London: King. 1937.

Marriott, Sir J. A. R., and Robertson, Sir Charles Grant. The evolution of Prussia: the making of an empire. New ed. Pp. 469. London: Oxford Univ. Press. 1937.

Marx, Fritz Morstein. Government in the third Reich. 2nd ed. Pp. 212. N.Y.: McGraw-Hill. 1937.

O'Brien, Terrence H. British experiments in public ownership and control. Pp. 304. London: Allen & Unwin. 1937.

Organisationbuch der NSDAP. 3rd ed. Pp. 556. Munich: Eher. 1937.

Oraveanu, Dimitrie. La séparation des pouvoirs administratif et judiciaire et le contentieux administratif en Roumanie. Pp. 239. Paris: Domat-Montchrestien. 1937.

Der Parteitag der Ehre, vom 8 bis 14 September 1936. Pp. 309. Munich: Eher. 1936.

Petersen, Walter. Die Stellung des Gerichtsherrn in der neuen Militärstrafgerichtsordnung vom 24 November 1933. Pp. 55. Berlin: Tritsch & Huther. 1937.

Roth, R. La réforme des pouvoirs publics en Algérie. Pp. 182. Paris: Domat-Montchrestien. 1937.

Rothery, Agnes. Denmark: kingdom of reason. Pp. 275. N.Y.: Viking. 1937.

Sanders, E. M. Great Britain and Ireland. Pp. 92. London: Philip. 1937.

Schuman, Frederick L. Germany since 1918. Pp. 140. N.Y.: Holt. 1937.

Stephenson, Carl, and Marcham, Frederick George, eds. Sources of English constitutional history. Pp. 940. N.Y.: Harper. 1937.

Stuible, Erich. Die rechtliche Stellung des Reichsministers. Pp. 51. Pforzheim: Loth & Kurs. 1936.

Walker, Eric A. The study of British imperial history. Pp. 47. London: Cambridge Univ. Press. 1937.

West, S. G. New corporative state of Portugal. Pp. 32. London: Author. 1937.

Articles

Administration. Le statut des fonctionnaires. *M. Lespes.* Enquête sur le recrutement et le perfectionnement des agents du cadre administratif supérieur. Part II. Rev. Int. des Sci. Admin. July-Sept., 1937.

Argentina. Argentina: the United States of the south. *Hubert Herring.* Yale Rev. Sept., 1937.

Brazil. Fascist trends in Brazil. *Ernest Hambloch.* Fortnightly. Oct., 1937.

British Empire. The privy council and the competence of federal legislatures to legislate pursuant to international obligations. Part II. *J. G. Starke.* Australian Law Jour. July, 1937.

———. La conférence impériale du couronnement. *Y.-M. Goblet.* Rev. Pol. et Parl. Aug., 1937.

———. La conférence impériale de Londres. *E. Pollet.* Rev. Econ. Int. Aug., 1937.

———. General Hertzog's impatience. *V. A. Barber.* Australasia and the conference. *Donald Cowie.* Nat. Rev. Sept. 1937.

———. Is the British empire in retreat? *Kinsley Martin.* Yale Rev. Sept., 1937.

———. The imperial conference. Round Table. Sept., 1937.

———. The imperial conference. *H. V. Dodson.* India's place in the empire. *Muhammad Z. Khan.* Int. Affairs. Sept.-Oct., 1937.

Canada. The working of confederation. *Roger Brossard* and *H. F. Angus.* Problems of public finance in the prairie provinces. *W. J. Waines.* The Saskatchewan debt adjustment program. *G. E. Brittnell.* Canadian Jour. Econ. and Pol. Sci. Aug., 1937.

———. Canada and the privy council. Round Table. Sept., 1937.

China. The new Chinese constitution. *H. H. Honnoll.* Am. Bar Assoc. Jour. Sept., 1937.

———. Chinese social legislation and the problem of its enforcement. *C. S. Chan.* Asiatic Rev. Oct., 1937.

Executive. Die starke Exekutive. *Zoltan Mágyary.* Zeitschrift gesamte Staatswissenschaft. Vol. 97, no. 4. 1937.

France. Le parti frontiste. *Georges Izard.* Le front populaire. *Louis Joze.* Le parti social français. *Charles Vallin.* Sciences Pol. Mar., May, Aug., 1937.

———. A year of "experiment" in France. *Fernand Maurette*. Int. Labour Rev. July, Aug., 1937.

———. Recovery in France. *Sisley Huddleston*. Trade union experiments in France. *Robert Dell*. Contemp. Rev. Aug., Oct., 1937.

———. M. Blum and the French senate. *Lindsay Rogers*. Pol. Sci. Quar. Sept., 1937.

———. The new deal in France. *John C. de Wilde*. For. Policy Rep. Sept. 1, 1937.

———. Leon Blum. *Raoul de Rousay de Sales*. Atlan. Mo. Oct., 1937.

———. The political situation in France. *Sir Charles Petrie*. Nine. Cent. Oct., 1937.

Germany. New trends in social policy in Germany. *L. H. A. Geck*. Int. Labour Rev. July, 1937.

———. Niemöller's crusade. *Emil Lengyel*. Current Hist. Sept., 1937.

———. Inside Germany. *N. P. Macdonald*. Fortnightly. Sept., 1937.

———. Germany as she is. *Observer*. Contemp. Rev. Oct., 1937.

———. The German press chamber. *Cedric Larson*. Criticism in a one-party state. *Fritz Morstein Marx*. Pub. Opinion Quar. Oct., 1937.

———. German education in 1936. *Lancelot Forster*. Nine. Cent. Oct., 1937.

———. Germany's new civil service act. *Fritz Morstein Marx*. Am. Pol. Sci. Rev. Oct., 1937.

———. Inside Germany. *Nat. Rev.* Oct., 1937.

———. Parteipolitische Kommissare. *Robert Reuling*. Freizügigkeit und Reichsplanung. *Richard Naumann*. Archiv. öffent. Rechts. Vol. 28, no. 3. 1937.

Great Britain. Courts of summary jurisdiction. Quarter sessions. The assizes. Divisional court cases. Court of criminal appeal. House of Lords. *Jour. Crim. Law*. July-Sept., 1937.

———. Toryism and industrial democracy. *J. H. Blaksley*. The position and prospects of the labour party: a reply to John Scanlon. *A. L. Rowse*. Labour and the League of Nations. *John Scanlon*. Nine. Cent. Aug., Sept., 1937.

———. Swastika over England? *V. F. Calverton*. Current Hist. Sept., 1937.

———. Can labour govern? *C. Delisle Burns*. Fortnightly. Oct., 1937.

———. Research activities of British political parties. *Joseph R. Starr*. The press and the British constitutional crisis. *Fred S. Siebert*. Pub. Opinion Quar. Oct., 1937.

———. The "United" Kingdom. *Kingsley Martin*. For. Affairs. Oct., 1937.

———. Ministers of the crown and the British constitution. *Harlow J. Heneman*. Administrative regions in Great Britain. *John A. Fairlie*. Am. Pol. Sci. Rev. Oct., 1937.

———. Early parliamentary organization. *Josiah Cox Russell*. Am. Hist. Rev. Oct., 1937.

Housing. English housing policy since the war. *Kaethe K. Liepmann*. Am. Econ. Rev. Sept., 1937.

Hungary. New tendencies in Hungary. *Ernst Benedikt*. Contemp. Rev. Sept., 1937.

India. The public services under the new constitution. The royal veto in the new constitution. *Nanda Lal Chatterji*. Modern Rev. Aug., Sept., 1937.

———. India: looking forward. *Lord Meston*. Contemp. Rev. Oct., 1937.

———. The coming ordeal in India. *J. C. French*. Nat. Rev. Oct., 1937.

———. Provincial autonomy; the first three months. *Sir Phiroze Sethna*. Asiatic Rev. Oct., 1937.

- Ireland. The Irish elections and plebiscite. *Hugh A. Law*. *Contemp. Rev.* Aug., 1937.
- . The administration of justice in the Irish free state. *W. A. Beers*. *Nine. Cent.* Aug., 1937.
- . The constitution of Éire. *A. Berriedale Keith*. *Jurid. Rev.* Sept., 1937.
- . Constitutional developments in Saorstát Éireann and the constitution of Éire: I, External affairs. *Arthur W. Bromage*. *Am. Pol. Sci. Rev.* Oct., 1937.
- Italy. Sons of the wolf. *Ernest Poole*. *Harper's*. Sept., 1937.
- . Land reclamation in fascist Italy. *Carl T. Schmidt*. *Pol. Sci. Quar.* Sept., 1937.
- . Mussolini's autobiography. *H. L. Stewart*. *Dalhousie Rev.* Oct., 1937.
- . Governmental and party leaders in fascist Italy. *Harold D. Lasswell* and *Renzo Sereno*. *Am. Pol. Sci. Rev.* Oct., 1937.
- Japan. Japan's agricultural administration. *Yoriyasu Arima*. Konoye and recent political changes. *Tsunego Baba*: Navy minister Yonai. *Yoshiji Nishijima*. *Contemp. Japan*. Sept., 1937.
- Labor. European legislation for industrial peace. *Norman Thomas*. *For. Affairs.* Oct., 1937.
- Mexico. The agrarian problem in Mexico. *Enrique Mungata*. *Int. Labour Rev.* July, Aug., 1937.
- . Mexico's social revolution. Mexico's challenge to foreign capital. *Charles A. Thomson*. *For. Policy Rep.* Aug. 1, 15, 1937.
- Money and Finance. The gold-parity depression in Norway and Denmark, 1925-1928. *Richard A. Lester*. The French franc, June, 1928-February, 1937. *W. H. Wynns*. *Jour. Pol. Econ.* Aug., 1937.
- . Fonds d'égalisation et stérilisation de l'or. *Robert Wolff*. *Rev. Econ. Pol.* July-Aug., 1937.
- . Les finances de l'union soviétique. *M. Bogolépov*. L'abandon de l'étalon-or en Grande-Bretagne et ses conséquences. *Jean Marchal*. *Rev. Écon. Int.* July, Aug., 1937.
- Poland. The evolution of Polish nationalism. *Jakob Rappaport*. *Contemp. Rev.* Aug., 1937.
- Portugal. Derrière la façade de la dictature portugaise. *Olof Hoijer*. *Sciences Pol.* Aug., 1937.
- . The political structure of the Portuguese "new state." *William C. Atkinson*. *Nine. Cent.* Sept., 1937.
- Relief. Work relief in Great Britain and Germany. *R. F. Bertram*. *Social Service Rev.* Sept., 1937.
- . The report on unemployment assistance. *J. C. Pringle*. *Nat. Rev.* Sept., 1937.
- Russia. Les conséquences des exécutions de Moscou. *Pierre Fervacque*. *Rev. Pol. et Parl.* Aug., 1937.
- . U.S.S.R.-1936. *Dorsey D. Jones*. *Southwestern Soc. Sci. Quar.* Sept., 1937.
- . Soviet crisis. *W. H. Chamberlin*. *Contemp. Japan*. Sept., 1937.
- . The recent Russian "Trotskyite Centre" criminal trial. *William R. Riddell*. *Jour. Crim. Law and Criminol.* Sept.-Oct., 1937.
- . The new Soviet electoral law. *Leon Josephson*. *Communist*. Oct., 1937.
- . Russia's gold-brick constitution. *William Henry Chamberlin*. *Am. Mercury*. Oct., 1937.
- . The Russian mystery: behind the Tukhachevsky plot. *Balticus*. The Moscow trials: a legal view. *Max Radin*. *For. Affairs*. Oct., 1937.

Scotland. The judicial system of the commonwealth in Scotland. *A. R. G. McMillan*. Jurid. Rev. Sept., 1937.

———. Scottish home rule. *Thomas Johnston*. Fortnightly. Oct., 1937.

Social Security. Revision of Danish unemployment-insurance law, 1937. Revised scale of unemployment-insurance benefits in Germany. *Monthly Labor Rev.* Aug., 1937.

South America. Dictators for neighbors. *Wilbur Burton*. Current Hist. Oct., 1937.

Sweden. Sweden revisited. *Marquis W. Childs*. Yale Rev. Sept., 1937.

Switzerland. Switzerland and democracy. *William Rappard*. Fortnightly, Sept., 1937.

INTERNATIONAL RELATIONS

Books

Académie de droit international de la Haye. Recueil des cours 1936. Vol. III. Pp. 747. Paris: Sirey. 1937.

Apell, Friedrich. Abhangige mitglieder völkerrechtlicher Verbände. Pp. 211. Leipzig: Rohrer. 1937.

Auchmuty, James Johnson. The United States government and Latin American independence. Pp. 283. London: King. 1937.

Ball, M. Margaret. Post-war German-Austrian relations: the Anschluss movement, 1918-1936. Pp. 313. Stanford Univ. (Calif.): Stanford Univ. Press. 1937.

Bardoux, Jacques. Angleterre et France; leurs politiques étrangères. Pp. 28. London: Oxford Univ. Press. 1937.

Bienstock, Gregor. Europa und die Weltpolitik. Pp. 84. Karlsbad: "Graphia." 1936.

Böttge, Kurt. Völkerrechtliche Vereinbarungen und zwischenstaatliches Zusammenarbeiten gegen Umsturzbestrebungen. Pp. 50. Würzburg: Mayr. 1937.

Breer, Herbert. Die Interzessionsbeschränkungen für Frauen im internationalen Recht. Pp. 49. Würzburg: Mayr. 1936.

British year book of international law, 1937. London: Oxford Univ. Press. 1937.

Brown, Francis J., and Roucek, Joseph Slabey, eds. Our racial and national minorities: their history, contributions, and present problems. Pp. 898. N.Y.: Prentice-Hall. 1937.

Chmelar, Joseph. National minorities in central Europe. Pp. 105. Prague: Orbis. 1937.

Ciano, Galeazzo. Die Aussenpolitik Italiens. Pp. 52. Rome: Ramo Editoriale degli Agricoltori. 1937.

Clyde, Paul Hibbert. A history of the modern and contemporary far east. Pp. 858. N.Y.: Prentice-Hall. 1937.

Coutant, P. R. Le contrôle du commerce international et de la fabrication privée des armes, munitions et matériels de guerre. Paris: Domat-Montchrestien. 1937.

Cruttwell, C. R. M. F. A history of peaceful change in the modern world. Pp. 221. N.Y.: Oxford Univ. Press. 1937.

Curran, Edward Lodge. Franco: who is he, what does he fight for? Pp. 47. Brooklyn (N.Y.): Int. Catholic Truth Society. 1937.

Dance, E. H. The world before Britain. Pp. 242. London: Longmans. 1937.

Daubitz, Joachim. Die Gerichtsbarkheit über die Bank für internationalen Zahlungsausgleich. Pp. 59. Sursee (Switzerland): Lustenberger. 1937.

Dimitroff, Georgi. Fascism is war. Pp. 15. N.Y.: Workers Lib. Pubs. 1937.

Dimitroff, Georgi. Spain's year of war. Pp. 14. N.Y.: Workers Lib. Pubs. 1937.

- Dulles, Foster Rhea.* Forty years of American-Japanese relations. Pp. 296. N.Y.: Appleton-Century. 1937.
- Duncan, Hannibal Gerald.* Immigration and assimilation. Pp. 902. London: Heath. 1937.
- Dunn, Frederick S.* Peaceful change; a study of international procedure. Pp. 156. N.Y.: Council on For. Rels. 1937.
- Dupuy, R. Ernest, and Eliot, George F.* If war comes. Pp. 378. N.Y.: Macmillan. 1937.
- Fiessler, Richard.* Der Gedanke der clausula rebus sic stantibus in deutschen Handelsverträgen. Pp. 46. Philippsburg/Baden: Kruse. 1937.
- Finch, George A.* The sources of modern international law. Pp. 133. Wash.: Carnegie Endowment for Int. Peace. 1937.
- Foerster, Friedrich Wilhelm.* Europa und die deutsche Frage. Pp. 517. Lucerne: Vita Nova Verlag. 1937.
- Gaillard, Gaston.* Péril jaune ou péril blanc? Pp. 364. Paris: Albert. 1937.
- Giesecke, Gerhard.* Die völkerrechtliche Stellung der internationalen Wasserläufe des deutschen Stromgebiets in Geschichte und Gegenwart dargestellt mit besonderer Berücksichtigung des Statuts von Barcelona. Pp. 102. Breslau: N.S.-Druckerei. 1936.
- Godden, G. M.* Conflict in Spain, 1920-1937; a documented record. Pp. 112. London: Burns, Oates & Washbourne. 1937.
- Gower, Sir Robert.* The Hungarian minorities in the succession states. Pp. 121. London: Grant Richards. 1937.
- Grotius Society.* Transactions. Vol. 22. Pp. 149. London: Sweet & Maxwell. 1937.
- Guibal, Raymond.* Peut-on fermer le canal de Suez? Pp. 180. Paris: Pedone. 1937.
- Haidar, Salim.* La prostitution et la traite des femmes et des enfants. Pp. 430. Paris: Domat-Montchrestien. 1937.
- Halden, Leon G. and Sallie F.* Japan: colossus of the far east. Pp. 108. Houston (Tex.): Authora. 1937.
- Hollis, Christopher.* Foreigners aren't fools. Pp. 183. N.Y.: Stokes. 1937.
- Howe, Quincy.* England expects every American to do his duty. Pp. 250. N.Y.: Simon & Schuster. 1937.
- Hughan, Jessie W.* The beginnings of war resistance. 2nd ed. Pp. 16. N.Y.: War Resisters League. 1937.
- Hyde, H. Montgomery, and Nuttall, G. R. F.* Air defense and the civil population. Pp. 275. London: Cresset Press. 1937.
- Inman, Samuel Guy.* Latin America; its place in world life. Pp. 468. Chicago: Willett, Clark. 1937.
- Kuczynski, Robert R.* Colonial population. Pp. 115. London: Oxford Univ. Press. 1937.
- Kuno, Y. S.* Japanese expansion on the Asiatic continent. Vol. 1. Pp. 392. Berkeley (Calif.): Univ. of Calif. Press. 1937.
- Mackover, J. M.* Jewish state or ghetto?: danger of Palestine's partition. Pp. 208. London: R. Anscombe. 1937.
- McWhirter, James.* Britain and Palestine in policy. Pp. 185. London: Methuen. 1937.
- Main, Ernest.* Palestine at the crossroads. Pp. 309. London: Allen & Unwin. 1937.
- Marriott, Sir John A. R.* Commonwealth or anarchy? Pp. 225. London: P. Allan. 1937.
- Martelli, George.* Italy against the world. Pp. 328. London: Chatto & Windus. 1937.

- Morrison, Herbert S., and Others.* The league and the future of the collective system. Pp. 254. N.Y.: Oxford Univ. Press. 1937.
- Mowat, R. B.* The fight for peace. Pp. 155. London: Arrowsmith. 1937.
- Myres, S. D., Jr., ed.* International, institutional, and world peace. Pp. 308. Dallas (Tex.): Arnold Found., Southern Methodist Univ. 1937.
- Nantet, J.* Les sanctions dans le pacte de la S.D.N. Paris: Domat-Montchrestien. 1937.
- Paish, Sir George.* The way out. Pp. 250. N.Y.: Putnam. 1937.
- Peace and friendship with the U.S.S.R. (Proceedings of the second national congress of peace and friendship with the U.S.S.R., London, May 13-14, 1937. Pp. 202. London: Gollancz. 1937.
- Postgate, Raymond W., and Vellance, Aylmer.* England goes to press. Pp. 337. Indianapolis: Bobbs-Merrill. 1937.
- Rae, Priscilla Macfarlane.* The £ s.d. of national defence. Pp. 215. London: Hodge. 1937.
- Rafuse, Robert Wallace.* The rule of non-extradition of nationals. Pp. 15. Urbana (Ill.): Univ. of Ill. 1937.
- Reinhold, Waldemar.* Monroedoktrin und Völkerbundssatzung. Pp. 41. Emsdetten (Westf.): Lechte. 1937.
- Robbins, Lionel.* Economic planning and international order. Pp. 330. N.Y.: Macmillan. 1937.
- Rogge, Heinrich.* Das Revisionsproblem. Pp. 124. Berlin: Junker & Dunnhaupt. 1937.
- Rolin, Henri-A.* La Belgique neutre? Pp. 125. Brussels: Larcier. 1937.
- Roosevelt, Theodore.* Colonial policies of the United States. Pp. 217. Garden City (N.Y.): Doubleday. 1937.
- Royal Institute of International Affairs.* The colonial problem. Pp. 462. London: Oxford Univ. Press. 1937.
- Royal Institute of International Affairs.* The problem of international investment. Pp. 381. London: Oxford Univ. Press. 1937.
- Sanders, E. M.* The world and the British empire. 2nd ed. London: Philip. 1937.
- Sender, Ramon J.* The war in Spain. Tr. by Sir. P. C. Mitchell. Pp. 328. London: Faber. 1937.
- Seton-Watson, Robert W.* Britain in Europe, 1789-1914. Pp. 725. N.Y.: Macmillan. 1937.
- Stewart, Maxwell S.* Colonies, trade, and prosperity. Pp. 31. N.Y.: Pub. Affairs Committee. 1937.
- Teeling, William.* Pope Pius XI and world affairs. Pp. 320. N.Y.: Stokes. 1937.
- Terrell, Richard.* Soviet understanding. Pp. 284. London: Heinemann. 1937.
- Thery, René.* La notion d'agression en droit international. Pp. 256. Paris: Pedone. 1937.
- Tillman, Hubert H.* The far east comes nearer. Pp. 356. Phila.: Lippincott. 1937.
- Timm, Charles A., and Myres, S. D., Jr.* Basic processes of international government. Pp. 42. (Arnold Foundation Studies in Public Affairs, Vol. 5, no. 4). Dallas (Tex.): Southern Methodist Univ. 1937.
- Uppgren, Arthur R.* Reciprocal trade agreements. Pp. 26. Minneapolis (Minn.): Univ. of Minn. Press. 1937.
- Voronoff, T.* L'article 16 du pacte de la S.D.N. Pp. 247. Paris: Sirey. 1937.
- Watts, Alan W.* The legacy of Asia and western man. Pp. 187. London: Murray. 1937.
- Weygand, Général.* La France est-elle défendue? Paris: Flammarion. 1937.

Wildes, Harry Emerson. Aliens in the east; a new history of Japan's foreign intercourse. Pp. 366. Phila.: Univ. of Pa. Press. 1937.

Wilgus, William J. The railway interrelations of the United States and Canada. Pp. 320. New Haven (Conn.): Yale Univ. Press. 1937.

Yakhontoff, Victor A. Eyes on Japan. Pp. 343. London: Williams & Norgate. 1937.

Zarras, J. Le contrôle de l'application des conventions internationales du travail. Pp. 386. Paris: Sirey, 1937.

Articles

American Foreign Relations. Das Weltecho der Hull-Erklärung vom 16. Juli 1937. Monatshefte für Auswärtige Politik. Sept., 1937.

———. Foreign political movements in the United States. *Frank C. Hanighen.* For. Affairs. Oct., 1937.

Armament and Disarmament. Les armées françaises devant le parlement. Parts II and III. *General Brissaud-Desmillet.* Rev. Pol. et Parl. Aug., Sept., 1937.

———. How to make our armaments useless. *Sir Norman Angell.* The army today; why it is not. *J. R. J. Macnamara.* Nine. Cent. Aug., Sept., 1937.

———. Booms, slumps, and armaments. Round Table. Sept., 1937.

———. Arms over Europe. *Curt L. Heymann.* Current Hist. Sept., Oct., 1937.

———. The disarmament hoax. *Fletcher Pratt.* Am. Mercury. Oct., 1937.

———. The case for conscription. *Victor W. Germain.* Nat. Rev. Oct., 1937.

British Dominions. Canada in world affairs. *E. J. Tarr.* Australia in world affairs. *R. G. Casey.* New Zealand and world affairs. *W. B. Sutch.* South Africa in world affairs. *F. S. Malan.* Int. Affairs. Sept.-Oct., 1937.

British Foreign Relations. Anglo-Japanese relations. *Viscount Inouye.* Empire Rev. Aug., 1937.

———. Great Britain and Italy. *Sir Frank Fox.* Nat. Rev. Aug., 1937.

———. The new world situation. Round Table. Sept., 1937.

———. Britain and Italy. *E. W. Polson Newman.* Contemp. Rev. Oct., 1937.

Colonies. If Germany recovered Tanganyika. *William Jesse.* Problems in Kenya. *S. R. C. Scott and Olga Watkins.* Empire Rev. Sept., 1937.

———. La loi douanière coloniale de 1928 et l'évolution économique des colonies *Louis Mèrat.* Rev. Pol. et Parl. Sept., 1937.

———. Kenya. *Francis Scott.* Nat. Rev. Sept., 1937.

Copyright. International copyright. *F. Ryan Duffy.* Air Law Rev. July, 1937.

Egypt. Le traité d'alliance anglo-égyptien. *J. J. Chevallier.* Rev. Gén. Droit Int. Pub. May-June, 1937.

———. Independent Egypt. *Arthur Merton.* Contemp. Rev. Aug., 1937.

———. Das Ende der Kapitulationen in Ägypten. Monatshefte für Auswärtige Politik. Sept., 1937.

———. Le traité anglo-égyptien du 26 août 1936 et le statut international nouveau de l'Égypte. *Ezékiel Gordon.* Le traité d'alliance anglo-égyptien du 26 août 1936 et la convention de Montreux du 8 mai 1937 concernant la suppression des capitulations en Égypte. *Jules Wathelet.* Rev. Droit Int. et Légis. Comp. Vol. 18, no. 2. 1937.

Ethiopia. Le conflit italo-éthiopien. Chap. III. *Charles Rousseau.* Rev. Gén. Droit Int. Pub. May-June, 1937.

———. The organization of Italy's east African empire. *Corrado Zoli.* For. Affairs. Oct., 1937.

Europe. Nerve storms in Europe. *George Glasgow.* Contemp. Rev. Aug., 1937.

- . The distempers of Europe. *Sir Arthur Willert*. *Atlan*. Mo. Sept., 1937.
- . Europe today and tomorrow. *Subhas Chandra Bose*. *Modern Rev.* Sept., 1937.
- . Rede Mussolini's in Palermo vom 20. August 1937. *Monatshefte für Auswärtige Politik*. Sept., 1937.
- . The Rome-Berlin axis. *Augur*. Germany in Europe. *F. J. C. Hearnshaw*. *Nat. Rev.* Sept., Oct., 1937.
- . Elements of European consolidation. *Robert Machray*. *Fortnightly*. Oct., 1937.
- . European possibilities. *John W. Wheeler-Bennett*. *Va. Quar. Rev.* Autumn, 1937.
- Far East. Whither Sino-Japanese relations? *Mitsuaki Kakchi*. *North China incidentals*. *H. Vere Redman*. *Contemp. Japan*. Sept., 1937.
- . The Sino-Japanese war and the American people. *Lawrence Hearn*. *Communist*. Sept., 1937.
- . Japan counts the cost. *Nathaniel Peffer*. *Harper's*. Sept., 1937.
- . Australia and Japan: conflict in the south Pacific. *Irving S. Friedman*. *Pol. Sci. Quar.* Sept., 1937.
- . The Sino-Japanese conflict in north China and Shanghai. *Herbert Rosinski*. *New Commonwealth Quar.* Sept., 1937.
- . Smoke and fire in the far east. *Round Table*. Sept., 1937.
- . Japan and China at war. *H. L. Bull. of Int. News*. Sept. 4, 1937.
- . Japan rides for a fall. *Harrison Brown*. The background of the fight for Mongolia. *Franz Michael*. Japan's new war. *A. M. Young*. The new movement in China: Kwangsi province. *Lancelot Forster*. The incident of the wounded ambassador. *George Glasgow*. *Contemp. Rev.* Sept., Oct., 1937.
- . Chaining the dragon. Japan and Hongkong. *R. T. Barrett*. *Fortnightly*. Sept., Oct., 1937.
- . The far eastern crisis. *M. D. Kennedy*. The future of the conflict between China and Japan. *B. M. Gull*. *Nine. Cent.* Sept., Oct., 1937.
- . The power of Japan. *Editors*. China: back to the wall. *Charles Hodges*. Asia's irrepressible conflict. *William H. Chamberlin*. *Current Hist.* Oct., 1937.
- . Natural resources of the far east. *Wilbur Burton*. The Japanese war in China. *O. M. Green*. *Asiatic Rev.* Oct., 1937.
- . The status of foreign concessions and settlements in the treaty ports of China. *William C. Johnstone*. *Am. Pol. Sci. Rev.* Oct., 1937.
- . The price of Japanese imperialism. *Nathaniel Peffer*. Japan attacks: China resists. *Walter H. Mallory*. *For. Affairs*. Oct., 1937.
- Inter-American Relations. La conception américaine de la paix et la conférence de Buenos-Ayres. *J. M. Yepes*. *Rev. Gén. Droit Int. Pub.* May-June, 1937.
- . El tratado permanente de 1903 y su arbitraria modificación—no abrogación—por Norteamérica en 1934. *Emilio Roig de Leuchsenring*. *Rev. Bimestre Cubana*. May-June, 1937.
- . Le cheminement du panaméricanisme. *Edouard Bonnefous*. *Rev. Pol. et Parl.* Aug., 1937.
- . Inter-American technical aviation conference. *Bull. Pan Am. Union*. Sept., 1937.
- International Labor Organization. International labor organization; results of international labor conference, June, 1937. *Monthly Labor Rev.* Aug., 1937.
- . What hol this I.L.O.? *John B. Andrews*. An employer's view of the I.L.O. *Henry I. Harriman*. A worker's impression of the I.L.O. *Robert J. Watt*. *Am. Labor Legis. Rev.* Sept., 1937.

———. The twenty-third session of the international labour conference. *Int. Labour Rev.* Sept., 1937.

International Law. The challenge to international law. *W. Friedmann.* Fortnightly: Oct., 1937.

———. Il principio dell'effettività e la sua funzione nell'ordinamento internazionale. *G. Ottolenghi.* La fine del conflitto italo-etiope ed il diritto internazionale. *A. P. Sereni.* Riv. Diritto Int. Oct.-Dec., 1936.

———. Zur Zukunft des Kriegsrechts. *Fritz Berber.* Monatshefte für Auswärtige Politik. Sept., 1937.

———. Bürgerkrieg und Völkerrecht. *Walter Simons.* Zeitschrift gesamte Staatswissenschaft. Vol. 97, no. 4. 1937.

International Organization. Le bureau international des expositions. *A. de La Pradelle.* Rev. Droit Int. Apr.-June, 1937.

———. The United States and international administrative unions; some historical aspects. *Henry Reiff.* Int. Concil. Sept., 1937.

International Relations. Education and international relations. *Elizabeth Wislmann.* Contemp. Rev. Sept., 1937.

International Trade and Finance. La crise monétaire et la banque des règlements internationaux. *Hugues Colin.* Sciences Pol. Mar., 1937.

———. La crise de l'or. *Édouard Payen.* Jour. Économistes. May-June, 1937.

———. Le commerce extérieur de l'U.R.S.S. *Constantin Roubenstein.* Rev. Écon. Int. July, 1937.

———. Recent moves to reduce trade barriers. The report of the league committee on raw materials. *B.S. K. Bull. of Int. News.* July 10, Sept. 18, 1937.

———. Some theoretical aspects of the gold problem. *T. Balogh.* The British exchange equalisation fund, 1935-37. *F. W. Paish.* Economica. Aug., 1937.

———. British trade policy and U.S.A. *Sir Edward Grigg.* Ottawa, world trade, and British agriculture. *Alan Lennox-Boyd.* Nat. Rev. Aug., Sept., 1937.

———. Trade rivalries in Latin America. *Howard J. Trueblood.* For. Policy Rep. Sept. 15, 1937.

———. Prospects of a trade agreement with England. *Percy W. Bidwell.* For. Affairs. Oct., 1937.

———. Gold: a world economic problem. *R. H. Bland.* The removal of exchange control; the example of Austria. *Oskar Morgenstern.* Int. Concil. Oct., 1937.

League of Nations. La réforme du pacte devant l'union juridique internationale. *A. de La Pradelle and Others.* Rev. Droit Int. Apr.-June, 1937.

———. Les réalités et les fictions. *Antoine Sottile.* La règle de l'unanimité dans le pacte de la société des nations. *Georges Sofronis.* L'unanimité absolue des voix, condition indispensable pour la revision des traités dans le cadre de la S.D.N. *Const. Ramniceano-Frassine.* Rev. Droit Int. Sci. Dipl. et Pol. Apr.-June, 1937.

———. Le différend d'Alexandrette entre la France et la Turquie. *Östen Undén.* New Commonwealth Quar. Sept., 1937.

———. The Upper Silesian settlement. *William J. Rose.* Contemp. Rev. Sept., 1937.

———. Retreat from Geneva. *Sir Arthur Willert.* Fortnightly. Sept., 1937.

———. Citizens of the world. *Salvador de Madariaga.* Forum. Sept., 1937.

———. Shanghai and the Geneva system. *Douglas Jerrold.* Nine. Cent. Oct., 1937.

———. "La società delle nazioni: sue funzioni e sua riforma" al primo convegno nazionale per gli studi di politica estera. *G. Mazzoleni.* Riv. Diritto Int. Oct.-Dec., 1936.

Minorities. *Minderheitenrecht und Volksgruppenrecht.* Alfred Von Verdross. New Commonwealth Quar. Sept., 1937.

Neutrality. The U.S.A. neutrality act of May 1st, 1937. David Mitrany. New Commonwealth Quar. Sept., 1937.

———. The neutrality act of 1937. Raymond Leslie Buell. For. Policy Rep. Oct. 1, 1937.

Pacific. A new move towards collective security in the Pacific. Donald Cowie. New Commonwealth Quar. Sept., 1937.

Palestine. The report of the Palestine royal commission. H.L. Palestine: the permanent mandates commission and the Zionist congress. B.S.K. Bull. of Int. News. July 24, Aug. 21, 1937.

———. The Palestine report and after. Lord Melchett and Jamaal Hussein. Empire Rev. Aug., 1937.

———. The Palestine report. Major H. Temperley. Palestine: a protest, a prospect, and a compromise. Josiah C. Wedgwood. Nine. Cent. Aug., Sept., 1937.

———. A letter from Palestine. Christopher Lumby. The Palestine problem. Norman Bentwich and H. St. J. B. Philby. Palestine. George Glasgow. Contemp. Rev. Aug., Sept., 1937.

———. Partition of Palestine. Pierre Crabitès. Current Hist. Sept., 1937.

———. The Palestine report and after. Round Table. Sept., 1937.

———. The report of the Palestine commission. Earl Peel. Int. Affairs. Sept.-Oct., 1937.

———. Before and after the Palestine report. Archer Cust. Asiatic Rev. Oct., 1937.

———. The Palestine report: alternatives to partition; the Arabs and the future of Palestine. Viscount Samuel and H. St. J. B. Philby. For. Affairs. Oct., 1937.

Radio. The international ether lanes. Louis G. Caldwell. Air Law Rev. July, 1937.

Rhine. La juridiction sur le Rhin après la dénonciation allemande du régime international. Jacques Maupas. Jour. Droit Int. May-June, 1937.

Sanctions. Le mécanisme juridique des sanctions internationales. Louis Delbez. Rev. Droit Pub. et Sci. Pol. Apr.-June, 1937.

———. Sanctions. Sir Charles Hobhouse and Gilbert Murray. Contemp. Rev. Aug., 1937.

Spain. The change in Spain. Robert Minor. An open letter on communist-socialist unity in Spain. Communist. Aug., Sept., 1937.

———. Spain: the British compromise plan. S.A. H. The Nyon conference and its results. Bull. of Int. News. Aug. 7, Sept. 18, 1937.

———. On Spanish civil wars. Sir Charles Oman. Nine. Cent. Sept., 1937.

———. A year of non-intervention. Stephen Heald. Fortnightly. Sept., 1937.

———. Some international problems of the Spanish civil war. Norman J. Padelford and Henry G. Seymour. Pol. Sci. Quar. Sept., 1937.

———. The war in Spain. Wilfrid Roberts. Catalonian chronicle. E. A. Peers. The strange case of the Nyon conference. George Glasgow. Contemp. Rev. Sept., Oct., 1937.

———. Military lessons of the Spanish war. Major-General A. C. Temperley. For. Affairs. Oct., 1937.

———. Britain blunders in Spain. H. N. Brailsford. Madrid's victory complex. Richard Watts, Jr. Current Hist. Oct., 1937.

———. Spain and culture. Heinrich Mann. Propaganda and Spain. T. C. Worsley. Life and Letters Today. Autumn, 1937.

- . Quelques aspects juridiques de la non-intervention en Espagne. *G. Balladore Pallieri*. Rev. Droit Int. et Légis. Comp. Vol. 18, no. 2. 1937.
- Treaties. La convention franco-britannique pour l'exécution réciproque des jugements. *H. C. Gutteridge*. Rev. Critique Droit Int. Apr.-June, 1937.
- . Les dernières conventions internationales relatives au travail maritime. *Ernest Mahaim*. Rev. Droit Int. et Légis. Comp. Vol. 18, no. 2. 1937.
- War and Peace. Can war be averted? *D. Graham Pole*. Modern Rev. Sept., 1937.
- . Peaceful change. *The Earl of Lytton*. Fortnightly. Sept., 1937.
- . Peace and permanent prosperity. *Sir George Paish*. Int. Concil. Oct., 1937.
- . The evolution of peace. *F. J. C. Hearnshaw*. Contemp. Rev. Oct., 1937.

JURISPRUDENCE

Books

- Ballantine, Henry W.*, ed. Problems in law for law school and bar examination review. 2nd ed. Pp. 1342. St. Paul (Minn.): West Pub. Co. 1937.
- Basnizki, Leopold*. Der Rechtsschutz geographischer Herkunftangaben nach deutschem, französischem und englischem Recht. Pp. 72. Würzburg: Triltsch. 1937.
- Boira, François*. Accidents du travail et responsabilité de droit commun. Paris: Libr. gén. de droit et de jurisprudence. 1937.
- Chen, Shu-Chiung*. Die Strafzumessung im chinesischen und deutschen Recht. Pp. 40. Zeulenroda: Sporn. 1937.
- Cosentini, François*. Code international du travail. Pp. 176. Paris: Pedone. 1937.
- Cosentini, François*. Code international du travail intellectuel. Pp. 152. Paris: Pedone. 1937.
- Cosentini, François*. Código civil panamericano. Pp. 184. Paris: Pedone. 1937.
- Doan, Edward N.* A work manual for the law of the press. Pp. 90. Lawrence (Kan.): Univ. of Kan. 1937.
- Dubois-Richard, P., Gordon, E., and Mouskheli, M.* Eléments du droit public. Pp. 530. Paris: Pedone. 1937.
- Fromkes, Harry*, comp. Lawyers' digest and guide of the entire 1937 session laws of the New York legislature, together with civil practice supplement. Pp. 213. N.Y.: Session Laws Pub. Co. 1937.
- Goldschmidt, Hans W.* English law from the foreign standpoint. Pp. 276. London: Pitman. 1937.
- Goodhart, Arthur L.* Essays in jurisprudence and the common law. Pp. 308. London: Cambridge Univ. Press. 1937.
- Herdon, Angelo*. The Scottsboro boys: four freed! five to go! Pp. 15. N.Y.: Workers Lib Pubs. 1937.
- Hofmann, Ernst*. Die Minderjährigkeit im internationalen Privatrecht auf rechtsvergleichender Grundlage. Pp. 92. Hamburg: Evert. 1937.
- Holmes, Oliver Wendell*. Collected legal papers. Pp. 316. N.Y.: Harcourt. 1937.
- Kerin, Austin H.* Yankees in court; humorous tales from Vermont courtrooms. Pp. 62. Brattleboro (Vt.): Stephen Daye Press. 1937.
- Klauss, Herbert*. National-sozialistisches Volksgruppenrecht. Pp. 118. Würzburg: Mayr. 1937.
- Krug, Josef Johann*. 50 Jahre Frauenkriminalität in Deutschland 1882-1932. Pp. 134. Munich: Gerber. 1937.
- Larcam, Russell*. The Delaware corporation. Pp. 210. Baltimore: Johns Hopkins Press. 1937.

- Lummus, Henry T.* The trial judge. Pp. 152. Chicago: Found. Press. 1937.
- O'Brien, Eris Michael.* The foundation of Australia, 1786-1800; a study in English criminal practice and penal colonization in the eighteenth century. Pp. 445. N.Y.: Sheed & Ward. 1937.
- Pound, Roscoe, and Others.* The future of the common law. Pp. 261. Cambridge (Mass.): Harvard Univ. 1937.
- Rooney, Miriam Theresa.* Lawlessness, law, and sanction. Pp. 176. Wash.: Catholic Univ. of America. 1937.
- Schilbach, Luisa-Carlota.* Die wesentlichen Grundzüge der geschichtlichen Entwicklung des ordentlichen Prozesses und seiner wichtigsten Probleme von dem Inkrafttreten der Zivilprozessordnung bis zur Gegenwart. Pp. 141. Seyda b. Zohna: Klapper. 1937.
- Schlarman, Joseph H.* Why prisons? 2nd ed. Pp. 80. Peoria (Ill.): Author. 1937.
- Seldes, George.* Freedom of the press. Pp. 380. Garden City (N.Y.): Garden City Pub. Co. 1937.
- Wiebe, Hans Hermann.* Die erbrechtliche Stellung eines in Deutschland wohnhaften Polen nach deutschem und polnischem internationalem Privatrecht. Pp. 98. Berlin: Stilke. 1937.

Articles

- Administration of Justice.** Why American criminal justice is a failure. *Pierre Crabitès.* Am. Bar Assoc. Jour. Sept., 1937.
- . Juvenile justice. *Benedict S. Alper.* Jour. Crim. Law and Criminol. Sept.-Oct., 1937.
- . The juvenile court in Connecticut. *Helen S. MacPherson.* Conn. Bar Jour. July, 1937.
- Administrative Law.** Justice administrative. *F. E. Barraclough.* Rev. Int. des Sciences Admin. July-Sept., 1937.
- Air Law.** Privatrechtliche Regelung des Lufttransportrechts in Holland. *J. M. Kan.* Landungs- und Abflugsrecht im neuen deutschen Luftrecht. *Curt Römer.* Archiv für Luftrecht. Apr.-Sept., 1937.
- . The constitutional law and history of broadcasting in Great Britain. *R. Jardine Brown.* Air Law Rev. July, 1937.
- Comparative Law.** Contribution à la théorie générale d'exécution des jugements étrangers en droit français et belge. *Maximilien Philonenko.* Jour. Droit Int. May-June, 1937.
- . The congress of comparative law. *John H. Wigmore.* Am. Bar Assoc. Jour. Oct., 1937.
- Conflict of Laws.** Les principes directeurs de la doctrine du conflit des lois. *J. H. Beale.* Chronique de jurisprudence française 1935-1936: conflit des lois. *H. Batiffol.* Les lois monétaires de 1937 et le droit international privé. *B. Noldé.* Rev. Critique Droit Int. Apr.-June, 1937.
- . Du conflit entre le traité international et la loi interne. Part II. *Lazare Kopelmanas.* Rev. Droit Int. et Légis. Comp. Vol. 18, no. 2. 1937.
- Delinquency.** L'enfance défective et délinquante en U.S.S.R. *Christianne Bardet.* Rev. Pol. et Parl. Aug., 1937.
- Freedom of Press.** This freedom of the press: the great illusion. *M. D. Kennedy.* Nine. Cent. Aug., 1937.
- Judicial Function.** Vers le rôle social de la magistrature. *Gabriel de Montvalon.* Rev. Pol. et Parl. Sept., 1937.
- Jury.** Trial by jury in modern continental criminal law. *Hermann Mannheim.* Law Quar. Rev. July, 1937.

Law Enforcement. Scientific aids in criminal investigation. Part VII. *F. G. Tryhorn*. Science in law enforcement; the American standpoint. *J. E. Hoover*. Police Jour. July-Sept., 1937.

———. The halt of racketeering. *Robert I. Center*. Atlan. Mo. Oct., 1937.

Law Reform. The reform of the law: VI. The problem of conveyancing. *Harold Potter*. VII. Administrative tribunals. *E. C. S. Wade*. Nine. Cent. Aug., Sept., 1937.

Legal Philosophy. The prospect for American law. *Roscoe Pound*. Neb. Law Bull. July, 1937.

———. Savigny and the historical school of law. *Herman Kantorowicz*. Law Quar. Rev. July, 1937.

———. Current tendencies in law and government. *John S. Dawson*. Jour. Bar Assoc. of Kan. Aug., 1937.

———. What is "sociology of law?" *N. S. Timasheff*. Am. Jour. of Sociol. Sept., 1937.

———. Economic predilection and the law. *Samuel Herman*. Am. Pol. Sci. Rev. Oct., 1937.

———. La normativité d'après l'analyse de la conduite juridique. *Carlos Cossio*. La notion de "personne juridique" dans la doctrine pure du droit. *Umberto Campagnolo*. Theorie und praxis. *Johann Schlesinger*. Rev. Int. Théorie Droit. Vol. 11, no. 3. 1937.

———. Grundfragen des ständischen Rechts. *Hans Merkel*. Zeitschrift gesamte Staatswissenschaft. Vol. 97, no. 4. 1937.

Legal Profession. Responsibility of the lawyer as a citizen. *William M. Mallbie*. Conn. Bar Jour. July, 1937.

———. Holiday thoughts on the profession. *Frederick H. Stinchfield*. The good and the "badde." *Frank J. Hogan*. Neb. Law Bull. July, 1937.

———. What leaders should live and lead by. *Frederick H. Stinchfield*. Modern standards of legal education. *Will Shafroth*. Unauthorized practice and the public relations of the bar. *Joseph D. Stecher*. The lawyer in the public service. *Emery J. Woodall*. Am. Bar Assoc. Jour. Aug., Sept., 1937.

———. The education of a lawyer. *Max Radin*. Calif. Law Rev. Sept., 1937.

Parole. A bill affecting parole in Illinois; the governor's veto. *Henry Horner*. Custodial aspects of federal parole. *Ray L. Huff*. Jour. Crim. Law and Criminol. Sept.-Oct., 1937.

Penology. More notes on jail psychology. Concluding notes on jail psychology. *P. Spratt*. Modern Rev. July, Aug., 1937.

———. Prison reform in Argentina. *Rupert Croft-Cooke*. Bull. Pan Am. Union. Sept., 1937.

———. The Pennsylvania prison society; a century and a half of penal reform. *Negley K. Teeters*. The retributive structure of punishment. *N. S. Timasheff*. Jour. Crim. Law and Criminol. Sept.-Oct., 1937.

Procedure. Some changes in the preliminary draft of the proposed federal rules of civil procedure. *Edward H. Hammond*. Am. Bar Assoc. Jour. Aug., 1937.

LOCAL GOVERNMENT

Books

Allen, William H. Why Tammanies revive. Pp. 150. N. Y.: Inst. for Pub. Service. 1937.

Baldwin, Leland D. Pittsburgh; the story of a city. Pp. 349. Pittsburgh (Pa.): Pittsburgh Univ. Press. 1937.

Blumenstock, Friedrich. Die öffentlichen Gemeindegemeinden nach bayerischem Gemeinderecht. Pp. 103. Kallmünz: Lassleben. 1936.

A career service in local government. Pp. 20. Chicago: Int. City Managers' Assoc. 1937.

Directory of social agencies of the city of New York, 1937-1938. Pp. 499. N.Y.: Columbia Univ. Press. 1937.

Franklin, Jay. LaGuardia; a biography. Pp. 176. N.Y.: Modern Age Books. 1937.

Griffenhagen and Associates. Report on the organization, procedures, expenditures, and finances of the DuPage county (Illinois) government. Wheaton (Ill.): DuPage County Taxpayers' Council. May, 1936.

Hammann, Otto. Die kommunale Selbstverwaltung in nationalsozialistischen Staat. Pp. 63. Gelnhausen: Kalbfleisch. 1937.

Hodgson, James Goodwin. The official publications of American counties; a union list. Pp. 616 (mimeo.). Fort Collins (Colo.): Author. 1937.

Karlin, William. New York slum clearance and the law. Pp. 18. N.Y.: Author. 1937.

Lehmann, Werner. Der alte und der neue Polizeibegriff. Pp. 107. Berlin: Ebering. 1937.

Local government in New Jersey; readjusting local services and areas. Pp. 64. Princeton (N.J.): Princeton Univ. 1937.

Manning, John W. Government in Kentucky counties. Pp. 54 (mimeo.). Lexington (Ky.): Bur. of Govt. Research, Univ. of Ky. 1937.

The march of city government: Cincinnati, 1802-1936. Pp. 32. Cincinnati: Mun. Ref. Bur. 1937.

Mottram, R. H. Success to the mayor; a narrative of the development of local self-government in a provincial centre during eight centuries. Pp. 280. London: Hale. 1937.

Müller, Heinrich. Über Präventivpolizei. Pp. 149. Zollikon-Zürich: Bender. 1937.

Nolen, John. New towns for old. 2nd ed. Pp. 227. Boston: Marshall Jones. 1937.

Owen, Mark B. Grinding as a process in garbage disposal. Pp. 14. Chicago: Am. Pub. Works Assoc. 1937.

Pettigrew, W. W. Municipal park layout, management, and administration. Pp. 279. London: Jour. of Park Admin., Ltd. 1937.

Reinhold, Frances L. The provisional appointment in city civil service systems, with special reference to the Philadelphia civil service. Pp. 135. Phila.: Univ. of Pa. Press. 1937.

Richardson, D. About policemen. Pp. 80. London: Ginn. 1937.

Salzman, L. F., ed. Victoria history of the counties of England. Vols. 4, 9. Pp. 300, 279. London: Oxford Univ. Press. 1937.

Scholafield, Charles E. Hart's local government act, 1933. 2nd ed. Pp. 528. London: Butterworth. 1937.

Articles

Accounting. Speeding tax work through punched holes. *John Kesselring.* Am. City. Sept., 1937.

Airports. City action now on airports urged to save "skyways of future." *Tex. Municipalities.* Sept., 1937.

Annexation. A new approach to the problem of annexation. *Willard F. Day.* Va. Mun. Rev. Sept., 1937.

Auditing. A municipal auditor-general. *Lent D. Upson.* Nat. Mun. Rev. Sept., 1937.

Auditoriums. New municipally owned auditoriums. *Pub. Management.* Sept., 1937.

Building Regulation. Preparation and revision of building codes. *George N. Thompson*. Pub. Management. Oct., 1937.

Cities. Individual differences in American cities; their nature and causation. *E. L. Thorndike* and *Ella Woodyard*. Am. Jour. of Sociol. Sept., 1937.

Commission Government. The drama of the commission plan in Galveston. *I. H. Kempner*. Nat. Mun. Rev. Aug., 1937.

City Manager. Toledo forges ahead under the manager plan. *Howard P. Jones*. Nat. Mun. Rev. Sept., 1937.

———. The government of the city of San José (Calif.). *John R. Brokenshire*. Western City. Sept., 1937.

———. A manager's diary of a power strike. *L. P. Cookingham*. Pub. Management. Oct., 1937.

County Government. A new opportunity for the practical improvement of county government in Virginia. *Charles W. Crush*. Va. Mun. Rev. Aug., 1937.

———. County and township government in 1935-36. *Clyde F. Snider*. Am. Pol. Sci. Rev. Oct., 1937.

Coöperation. The Brussels public administration center. *Rowland Egger*. Pub. Management. Sept., 1937.

Federal Relations. The city's place in the nation. Am. City. Sept., 1937.

Fire Protection. The cost of fire protection built into water works. *H. R. F. Helland*. Auxiliary high-pressure water system for fire protection in San Francisco. Am. City. Sept., 1937.

Great Britain. Merge units of local government in England and Wales. *John A. Fairlie*. Nat. Mun. Rev. Aug., 1937.

Health. Measuring public health work. *C. E. Ridley* and *H. A. Simon*. Pub. Management. Sept., 1937.

———. Actions of health officers invalidated by the courts. *J. A. Tobey*. Am. City. Sept., 1937.

———. Maternity care in rural areas by public health nurses. *Helen A. Bigelow*. Am. Jour. of Pub. Health. Oct., 1937.

Housing. Housing and resettlement in Vienna. *Ernst Karl Winter*. Nat. Mun. Rev. Aug., 1937.

———. Procedure for securing loans and grants under U. S. housing act of 1937. *Coleman Woodbury*. Am. City. Sept., 1937.

Law. Administration of a municipal law office. *Barnet Hodes*. Legal Notes on Local Govt. Sept., 1937.

Legislation. Legislative problems facing Virginia municipalities. *John N. Sebrell*. Va. Mun. Rev. Aug., 1937.

New York. New York elects a mayor. *Leon Siler*. Current Hist. Oct., 1937.

———. La Guardia will win. *Sutherland Denlinger*. Forum. Oct., 1937.

New Zealand. Municipal government of Wellington, New Zealand. *E. P. Norman*. Local Govt. Admin. Sept., 1937.

Parking Meters. Parking meters legal means of control. Western City. Aug., 1937.

———. Eighteen months of intelligent parking-meter operation. *C. G. Beckenbach*. Parking meters solve the city parking problem. *O. R. Bean*. Am. City. Sept., 1937.

Parties and Elections. Letters from men in action. *J. T. Salter*. Nat. Mun. Rev. Sept., 1937.

Personnel. Personnel progress in the deep south. *Roscoe C. Martin*. Nat. Mun. Rev. Aug., 1937.

———. Public employees, the C. I. O. and A. F. of L. Western City. Aug., 1937.

———. Municipal personnel administration in U.S.A. *G. Lyle Belsley*. Local Govt. Admin. Sept., 1937.

———. Public employee unions. *Arnold S. Zander* and *Abram Flaxer*. Measuring public personnel activities. *C. E. Ridley* and *H. A. Simon*. Pub. Management. Sept., Oct., 1937.

Planning. Neighborhood planning committee suggests novel real-estate development. *W. H. Ludlow*. Place names for new suburbs, streets, and parks. *H. W. Brooks*. Am. City. Sept., 1937.

Police. Linking the scientist to the beat. *A. E. Rowsell*. How the police can prevent juvenile crime. *William Kerr*. The police and the law. Police Jour. July-Sept., 1937.

———. A state program of police training. *Leonard Logan*. Okla. Mun. Rev. Sept., 1937.

Public Utilities. Municipal water-utility management. Part I. *E. Grostenor Plowman*. Jour. Business. July, 1937.

———. Public contributions of municipally owned electric utilities compared with taxes of private utilities in Minnesota. *Arthur Borak*. Minn. Municipalities. Aug., 1937.

———. Municipal responsibility for utility regulation. *John Bauer*. Pub. Management. Aug., 1937.

Recreation. Measuring public recreation systems. *C. E. Ridley* and *H. A. Simon*. Trends in community recreation centers. *George D. Butler*. Pub. Management. Aug., 1937.

Reform. Advice for municipal reformers. *John Albert Vieg*. Pub. Opinion Quar. Oct., 1937.

Sanitation. Garbage collection; rear of house or curb. Western City. Aug., 1937.

———. Reduction of refuse by grinding. *R. E. Caller*. Refuse collection and disposal in Chicago. *J. J. Butler*. Am. City. Sept., 1937.

Taxation. Installment payment of delinquent taxes. Tex. Municipalities. Arg., 1937.

Town Government. Liquidating town government in decadent rural areas of Maine. *O. J. Scoville*. Jour. Land and Pub. Util. Econ. Aug., 1937.

Traffic Regulation. Municipal responsibility for the safe operation of vehicles. *H. J. Devine*. The Municipality. Sept., 1937.

Transportation. New York City's transit unification troubles. *James Blaine Walker*. Pub. Util. Fort. Sept. 16, 1937.

Welfare. Reintegrating the security wage earner with his community. *Oliver C. Short* and *Edward F. Dow*. Nat. Mun. Rev. Sept., 1937.

Zoning. The powers of zoning boards of appeals. *A. J. Rabuck*. The Municipality. Sept., 1937.

POLITICAL THEORY AND MISCELLANEOUS

Books

Aaron, R. John Locke. Pp. 340. London: Oxford Univ. Press. 1937.

Amter, I. The truth about the communists. Pp. 15. N.Y.: Workers Lib. Pubs. 1937.

Baster, A. S. J. The twilight of American capitalism; an economic interpretation of the new deal. Pp. 226. London: King. 1937.

Bilan du communisme. Pp. 212. Paris: Libr. technique et économique. 1937.

Bittelman, Alex. Milestones in the history of the communist party. Pp. 92. N.Y.: Workers' Lib. Pubs. 1937.

- Borgese, Giuseppe Antonio.* Goliath; the march of fascism. Pp. 492. N.Y.: Viking. 1937.
- Brady, Robert A.* The spirit and structure of German fascism. Pp. 420. N.Y.: Viking. 1937.
- Browder, Earl.* The communists in the people's front. Pp. 126. N.Y.: Workers' Lib. Pubs. 1937.
- Burnham, James.* The people's front; the new betrayal. Pp. 64. N.Y.: Pioneer Pubs. 1937.
- Challaye.* La formation du socialisme. Pp. 192. Paris: Alcan. 1937.
- Cohen, Hymen Ezra.* Recent theories of sovereignty. Pp. 178. Chicago: Univ. of Chicago Press. 1937.
- Cole, G. D. H.* The people's front. London: Gollancz. 1937.
- Curran, Edward Lodge.* Facts about communism. Pp. 208. Brooklyn (N.Y.): Int. Catholic Truth Society. 1937.
- Dartmouth College* (Amos Tuck School of Administration and Finance). Manual on research and reports . . . in the field of the social sciences. Pp. 150. London: McGraw-Hill. 1937.
- Deimel, Theodor.* Carlyle und der Nationalsozialismus. Pp. 144. Würzburg: Triltsch. 1936.
- Dorgeles, R.* Vive la liberté. Pp. 311. Paris: Michel. 1937.
- Eckrich, Frieda.* Die Idee des Reiches in der nationalpolitischen Literatur seit Beendigung des Weltkrieges. Pp. 90. Saarbrücken: Saardt. 1937.
- Epstein, M.,* ed. Statesman's year-book, 1937. Pp. 1538. N.Y.: Macmillan. 1937.
- Feldman, H.* Problems in labour relations. London: Macmillan. 1937.
- Flavell, Alfred and Marion.* The citizen and the modern world. Pp. 301. London: Blackie. 1937.
- Grandin, A.* Bibliographie générale des sciences juridiques, politiques, économiques, et sociales. 10th supp. Pp. 212. Paris: Sirey. 1937.
- Grasiadski, A.* Le capital et la valeur; critiques des théories de Marx. Paris: Libr. gén. de droit et de jurisprudence. 1937.
- Hill, Elizabeth, and Mudie, Doris,* eds. The letters of Lenin. Pp. 499. N.Y.: Harcourt. 1937.
- Hudson, Roy.* Who are the Reds? Pp. 23. N.Y.: Workers' Lib. Pubs. 1937.
- Hutcheson, Joseph Chappell, Jr.* Law as liberator: the principle of democracy in America; the spirit of its laws. Pp. 210. Chicago: Found. Press. 1937.
- Huxley, Aldous.* An encyclopedia of pacifism. Pp. 128. London: Chatto & Windus. 1937.
- Jäkel, Ernst.* Der Einfluss der nationalsozialistischen Revolution auf die Lehre von der Verbindlichkeit der Staatsakte. Pp. 95. Schmiedeberg i. Rsgb.: Hirschfelder. 1936.
- Kapras, Jan, Jr.* Fasismus. Pp. 306. Prague: Mazac. 1936.
- Kiewiet, C. W.* A study in politics and economics. Pp. 341. London: Cambridge Univ. Press. 1937.
- Laidler, Harry W.* American socialism; its aims and practical program. Pp. 345. N.Y.: Harper. 1937.
- Laidler, Harry W., and Campbell, Wallace J.* Consumers coöperation. Pp. 64. N.Y.: League for Indus. Democ. 1937.
- Lewis, John.* Socialism and the churches. Pp. 23. London: Gollancz. 1937.
- Lippmann, Walter.* An inquiry into the principles of the good society. Pp. 432. Boston: Little, Brown. 1937.
- Lynd, Robert S. and Helen M.* Middletown; a study in American culture. Pp. 560. N.Y.: Harcourt. 1937.

Meek, C. K. Law and authority in a Nigerian tribe; a study in indirect rule. Pp. 388. N.Y.: Oxford Univ. Press. 1937.

Mersereau, Robert H. If this be treason. Pp. 127. San Francisco: Author. 1937.

Minton, Bruce, and Stuart, John. Men who lead labor. Pp. 270. N.Y.: Modern Age Books. 1937.

Mumford, Philip S. An introduction to pacifism. Pp. 112. London: Cassell. 1937.

Paine, Thomas. Rights of man. Pp. 279. London: Watts. 1937.

Palgrave, Sir R. F. D. The chairman's handbook. Rev. by G. F. M. Campion and L. A. Abraham. Pp. 127. London: Dent. 1937.

Peterson, George M. Diminishing returns and planned economy. Pp. 266. N.Y.: Ronald Press. 1937.

Pope Pius XI. Atheistic communism: encyclical letter. Pp. 54. Wash.: Nat. Catholic Welfare Conf. 1937.

Relton, H. Maurice. Religion and the state. Pp. 184. London: Unicorn Press. 1937.

Robertson, Sir Charles Grant. Religion and the totalitarian state. Pp. 94. London: Epworth Press. 1937.

Staline. Le marxisme et la question nationale et coloniale. Paris: Editions sociales internationales. 1937.

Swabey, Marie Collins. Theory of the democratic state. Pp. 234. Cambridge (Mass.): Harvard Univ. Press. 1937.

Vizetelly, Frank H., ed. The new international year book; a compendium of the world's progress for the year 1936. Pp. 802. London: Funk & Wagnalls. 1937.

Werres, Josef. Die Rechtsquellenlehre der historischen Schule, insbesondere die Lehre vom Juristenrecht. Pp. 74. Köln-Kalk: Welsel. 1937.

Whitney, Frederick Lamson. The elements of research. Pp. 633. N.Y.: Prentice-Hall. 1937.

Yaroslavsky, E. History of anarchism in Russia. Pp. 127. N.Y.: Int. Pubs. 1937.

Articles

Church and State. Gott und Souverän. *Karl Th. Buddeberg.* Archiv öffent. Rechts. Vol. 28, no. 3. 1937.

Communism. I was a communist martyr. *Fred E. Beal.* Am. Mercury. Sept., 1937.

———. The broken equilibrium. *Christian Richard.* Catholic World. Sept., 1937.

Conservatism. A formula for conservatives. *Harold J. Laski.* Harper's. Sept., 1937.

Coöperatives. The coöperative movement. *H. Mitchell* and *H. C. Grant.* Canadian Jour. Econ. and Pol. Sci. Aug., 1937.

———. The Palestinian coöperative settlements. *Enil Lechay.* Contemp. Rev. Oct., 1937.

Corporative State. Syndicalisme, corporatisme et état corporatif. Part II. *Roger Bonnard.* Rev. Droit Pub. et Sci. Pol. Apr.-June, 1937.

Democracy. Revitalizing democracy. *K. F. Mathers.* Forum. Oct., 1937.

———. Democracy and human purpose. *William G. Peck.* Va. Quar. Rev. Autumn, 1937.

———. American democracy in practice. *John Brown.* Nat. Rev. Oct., 1937.

———. Personal power and popular government. *Lindsay Rogers.* Southern Rev. Autumn, 1937.

Democracy and Education. Whither adult education? *Thomas H. Reed.* Nat. Mun. Rev. Aug., 1937.

———. Education in fascist Italy. *Max Ascoli*. Education in nazi Germany. *Frieda Wunderlich*. Education in soviet Russia. *Goodwin Watson*. Some prerequisites for democratic education. *Robert Ulich*. The task of democratic education; pre-Hitler Germany and England. *Adolf Löwe*. Democracy and education in the United States. *Charles A. Beard*. Social Research. Sept., 1937.

Dictatorship. The two dictators. *Emil Ludwig*. Forum. Oct., 1937.

Economic Planning. The theory of planned economy; a study of some recent works. *Robert Mossé*. Int. Labour Rev. Sept., 1937.

Individualism. Organization: compulsory or voluntary? *George H. Davis*. Nation's Business. Sept., 1937.

Liberalism. Liberalism commits suicide. *Lawrence Dennis*. Am. Mercury. Oct., 1937.

———. The reconstruction of liberalism. *C. H. McIlwain*. For. Affairs. Oct., 1937.

———. Liberalism and the case of Leon Trotsky. *Sidney Hook*. Southern Rev. Autumn, 1937.

Marshall. John Marshall as an historian. *William A. Foran*. Am. Hist. Rev. Oct., 1937.

Marx. Karl Marx's "Capital." Communist. Oct., 1937.

Monopoly and Competition. Monopolistic competition and economic realism. *John M. Cassels*. Canadian Jour. Econ. and Pol. Sci. Aug., 1937.

———. Price-fixing and marketing agreements. *Stanley Lewis* and *F. L. McCay*. Australian Law Jour. Aug., 1937.

———. Monopolistic or imperfect competition? *E. H. Chamberlin*. Quar. Jour. Econ. Aug., 1937.

———. Monopoly and competition; a classification. *Fritz Machlup*. Am. Econ. Rev. Sept., 1937.

Pareto. Pareto's "general sociology"; the problem of method in the social sciences. *C. B. Macpherson*. Canadian Jour. Econ. and Pol. Sci. Aug., 1937.

Political Economy. La naissance d'une nouvelle économie politique. *Pierre Devouges*. Sciences Pol. May, 1937.

Political Philosophy. The ethical conception of citizenship. *C. L. Ghevala*. Modern Rev. July, 1937.

Popular Front. The party and the people's front. *Alex Bittelman*. Uniting the negro people in the people's front. *James W. Ford*. Scottsboro in the light of building the negro people's front. *James W. Ford* and *Anna Damon*. Building the party in the struggle for proletarian unity and the people's front. Communist. Aug., Sept., 1937.

Public Opinion. Public relations of the Bell system. *Norton E. Long*. Determinants of opinion. *Theodore Newcomb*. Statistics and public opinion. *Waller A. Lurie*. War or peace in the movies. *Albert Benham*. Pub. Opinion Quar. Oct., 1937.

———. Fortune quarterly survey: X. Fortune. Oct., 1937.

Radicalism. Rescuing radicals by law. *Takeichiro Moriyama*. Contemp. Japan. Sept., 1937.

Straw Polls. Recent developments in the straw-poll field. Part II. *Claude E. Robinson*. Pub. Opinion Quar. Oct., 1937.

Webster. Daniel Webster; the olympian. *Roy St. George Stubbs*. Am. Bar Assoc. Jour. Oct., 1937.

GOVERNMENT PUBLICATIONS

MILES O. PRICE

Law Library, Columbia University

AMERICAN

UNITED STATES

Congress

Joint committee on government organization. Reorganization of executive departments, hearings . . . having under consideration Senate document 8, message of the President transmitting report of President's committee on administrative management in government of United States, Washington: Govt. Ptg. Off., 1937. 414 p.

Joint committee on tax evasion and avoidance. Tax evasion and avoidance, hearings, 75th Congress, 1st session, pursuant to Public res. 40. . . . Washington: Govt. Ptg. Off., 1937. 423 p.

House of representatives. Civil service committee. Veteran preference in government employment, hearings, 75th Congress, 1st session, on H. R. 5558, H. R. 5821, H. R. 6497, bills to give certain preferences in civil service to veterans or to their wives and widows. Washington: Govt. Ptg. Off., 1937. pt. 1, 149 p.

Senate

State taxation of federal agencies, letter from Charles Woolf, president of Maricopa County Taxpayers' League, to Carl Hayden, submitting detailed statement of legal authority for imposition of state taxation on national banks and other federal instrumentalities, with opinions from executive branch of government . . . Washington: Govt. Ptg. Off., 1937. 54 p.

——— *Select committee on investigation of executive agencies.* Investigation of executive agencies of the government, report . . . pursuant to S. Res. 217 (74th Cong.); prepared by Brookings Institution. Washington: Govt. Ptg. Off., 1937. (Nos. 1, 6-10, and 13 have been seen. These cover government financial agencies, activities in field of public personnel, public welfare, promotion of commerce and industry, regulation of private business enterprises, and library, information and statistical services; and report on the organization of federal law enforcement activities. They vary in length from 16 to 138 pages.)

——— *Immigration committee.* Deportation of aliens, hearings before subcommittee, 75th Congress, 1st session . . . Washington: Govt. Ptg. Off., 1937. 101 p.

——— *Judiciary committee.* Reorganization of federal judiciary, hearings, 75th Congress, 1st session, on S. 1392, to reorganize judicial branch of the government. (Appears in six parts, with 2,040 pages in all. A consolidated index of witnesses is in the back of part 8.)

——— Adverse report to accompany S. 1392; submitted by Mr. McCarran for Mr. King. Washington: Govt. Ptg. Off., 1937. 49 p. (S. rep. 711, 75th Cong. 1st sess. This is the adverse report which resulted in the failure of the President's court reorganization bill.)

Labor Department

Division of labor standards. Digest of state and federal labor legislation, enacted September 15, 1936, to July 1, 1937. Washington: Govt. Ptg. Off., 1937. 124 p. (Bulletin No. 15.)

Library of Congress

Bibliography division. Federal income tax in United States, list of recent writings (supplementary to mimeographed lists, Dec. 10, 1931, and July 9, 1934); compiled by Anne L. Baden. Washington, 1937, 28 p. (processed.)

Manuscripts division. Journals of Continental Congress, 1774-89; edited from original records in Library of Congress by Roscoe R. Hill. v. 34. (This volume, covering the period from January 21, 1788, to Mar. 2, 1789, completes the work.)

President's Committee on Administrative Management

Studies on administrative management in government of the United States. (Five of these have been seen, covering administrative management, fiscal management, independent regulatory commissions, personnel administration, and rule-making power. They vary in length from 37 to 75 pages.)

Social Security Board

Social security in America. The factual background of the social security act as summarized from staff reports to the committee on economic security. Washington: Govt. Ptg. Off., 1937. 592 p.

State Department

International transfers of territory in Europe, with names of the affected political subdivisions as of 1910-1914 and the present. Prepared by Sophia Saucerman, assistant geographer, Department of State. Washington: Govt. Ptg. Off., 1937. 244 p., maps. "Changes in international boundaries and in the distribution of national territory are of interest to the United States in connection with the administration of certain laws, including those governing immigration, naturalization, deportation, and extradition. It is to supply information for such purposes that the material contained in this publication has been prepared." Obviously it is also of use to the student of history and of foreign relations. "The Department of State, however, does not assume responsibility for the correctness of this publication."

——— Treaties and other international acts of the United States of America. Edited by Hunter Miller. Volume 5. Documents 122-150; 1846-1852. Document 151: 1799. Washington: Govt. Ptg. Off., 1937. 1103 p. map in pocket.

STATE AND TERRITORIAL**CALIFORNIA**

University of California, Berkeley. Bureau of public administration. Training for public service: a bibliography compiled by Dorothy Campbell Culver. Berkeley, 1937. 48 p.

GEORGIA

Dept. of public welfare. Survey of criminal court procedure in Georgia. Atlanta, 1937. 176 p.

ILLINOIS

Civil service commission. A civil service manual prepared by the Illinois state civil service commission . . . Springfield, 1937. 11 p.

——— Classification of positions of the Illinois state civil service. Springfield, 1937. 194 p.

Committee on citizenship and naturalization. Citizenship and naturalization activities in the United States. Springfield, 1937. 145 p.

KENTUCKY

Public administration service. Handbook of financial administration, commonwealth of Kentucky. Frankfort, 1937. 354 p.

University of Kentucky, Lexington. College of education. The influence of court decisions in shaping the policies of school administration in Kentucky, by George W. Campbell. Lexington, 1937. 132 p.

MASSACHUSETTS

Special commission on state, county, and local taxation and public expenditures. Report . . . Boston, 1937. 67 p.

NEW YORK

New York City. Municipal civil service commission. Pamphlet on proportional representation; what "P. R." is, how it works. New York, 1937. 72 p.

OHIO

Tax commission. Division of research and statistics. Cost of local government in Oklahoma for fiscal year ending June 30, 1936 (with comparisons with previous years). Oklahoma City, 1936. 115 p. (mime.)

SOUTH DAKOTA

State planning board, Brookings. County planning in South Dakota. Brookings, 1937. 40 leaves (mime.)

TEXAS

Agricultural experiment station. Possible savings through changes in local government. College Station, 1937. 92 p.

VIRGINIA

University of Virginia, Charlottesville. Bureau of public administration. Training for public service in Virginia, by Rowland Andrews Egger, Harold I. Baumes, and Raymond Uhl. University, 1937. 88 p.

WISCONSIN

University of Wisconsin, Madison. The Wisconsin labor relations act, by Nathan P. Feinsinger and William Gorham Rice, Jr. Madison, 1937. 78 p. (Bulletin No. 2254.)

FOREIGN AND INTERNATIONAL

ARGENTINE REPUBLIC

Ministry of foreign affairs and worship. Project of convention on the right of asylum. Buenos Aires, 1937. 53 p.

CANADA

Elgin-Grey papers, 1846-1852, edited with notes and appendices by Sir A. G. Doughty. Ottawa, J. O. Patenaude, 1937. 4 v.

COLOMBIA

Archivo del congreso nacional. Indice alfabético. 1819 a 1935. Leyes, proyectos, rehabilitaciones, memoriales, telegramas, etc. Bogotá, Imp. Nacional, 1936. 985 p.

GREAT BRITAIN

Foreign office. Final act, convention, and other documents regarding the abolition of the capitulations in Egypt, Montreux, May 8, 1937. London, H. M. S. O., 1937. 71 p. (Cmd. 5491.)

Palestine royal commission. Report presented by the secretary of state for the colonies . . . July, 1937. London, H. M. S. O., 1937. 404 p. (Cmd. 5479.)

Parliament. House of commons. Select committee on private bill procedure (local legislation clauses). Report . . . together with the proceedings of the committee, minutes of evidence and index. London, H. M. S. O., 1937. 103 p.

SPAIN

Ministerio de estado. La agresión Italiana. Documentos ocupados a las unidades italianas en la acción de Guadalajara. Valencia, 1937. 319 p.

Spanish embassy, Washington. Spanish white book. The Italian invasion of Spain. Official documents and papers seized from Italian units in action at Guadalajara. Presented by the Spanish government to the League of Nations. New York, 1937. 319 p.

LEAGUE OF NATIONS

The Nyon arrangement and the agreement supplementary to the Nyon arrangement. Communication from the minister for foreign affairs of France, president of the Mediterranean conference of Nyon. Geneva, 1937. 15 p. (VII. Questions politiques, 1937.VII.2.)

Ratification of agreements and conventions concluded under the auspices of the League of Nations. Eighteenth list. Geneva, 1937. 133 p. (V. Legal. 1937.V.4.)

Refugees coming from Germany. Report . . . by Sir Neill Malcolm. Geneva, 1937. 11 p. (XII. B. International bureaux. 1937. XXI.B.2.)

The League of Nations and modern methods of spreading information utilized in the cause of peace. Report by the Secretary-General. Geneva, 1937. 11 p. (General.1937.5.)

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